



**USDA**  
**Forest Service**  
*Caring for the Land and  
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# Summary Report

## **WORKSHOP ON OPTIONS TO PROVIDE FOR DIVERSITY OF PLANT AND ANIMAL COMMUNITIES IN LAND AND RESOURCE MANAGEMENT PLANNING**

**Conducted by the U.S. Department of Agriculture, Forest Service  
Facilitated by the Meridian Institute**

**February 18-20, 2003  
National Conference Center  
Lansdowne, Virginia**



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## **List of Appendices**

### **Appendix A-Workshop Planning and Preparation Documents**

- Federal Register notice announcing the workshop and initiating the public nomination process;
- The invitation letter;
- The workshop agenda and suggested ground rules; and
- The participant list, sorted alphabetically and by breakout groups.

### **Appendix B1 – Overview – Fred Norbury**

### **Appendix B2 – NFMA Forest Plan Prototype Presentation – Lisa Freedman**

### **Appendix C1 – Option 1 – Chris Iverson**

### **Appendix C2 – Option 2 – Jack Waide**

### **Appendix D1 – ‘Option Z’ Presentation – Jonathan Haufler**

### **Appendix D2 – ‘Community-Based Approach’ – Norman Johnson and Steve Mealey**

### **Appendix D3 – ‘Retain 1982 Rule’ – Ray Vaughn**

### **Appendix D4 – ‘Scientist Alternative’ – Don Waller**

### **Appendix D5 – ‘Land Management System Tool’ – Jim Walls**

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## **Executive Summary**

On February 18-20, 2003, 100 people participated in a USDA Forest Service (USDA-FS) Workshop on Options to Provide for Diversity of Plant and Animal Communities in Land and Resource Management Planning. The workshop, held at the National Conference Center in Lansdowne, Virginia, was conducted during the formal comment period on the Forest Service's proposed rule to revise the land and resource management planning process for National Forest System. Participants were selected through an open public nominations process and by special invitation. Participants represented a broad cross section of stakeholder groups, including people with scientific expertise and practical experience with the forest planning process.

As part of the December 6, 2002 Proposed Rule, the agency outlined two options to fulfill the National Forest Management Act (NFMA) statutory requirement that forest plans provide for the diversity of plant and animal communities in order to meet overall multiple-use objectives of the land and resource management plan. The purpose of the workshop was to obtain high quality and focused input from a diverse, balanced, and knowledgeable group of stakeholders on:

- scientifically sound and practical forest planning approaches to implementing this statutory requirement;
- strengths and weaknesses, and suggestions for how to improve upon the two options outlined in the Proposed Rule to implement this statutory requirement; and
- any additional options to implementing this statutory requirement.

### **Opening Remarks**

Jim Gladen, Director of Watersheds, Fish, Wildlife, Air and Rare Plants, USDA-FS, welcomed participants and thanked them for coming, especially in light of the major winter storm the Washington, DC area experienced just prior to the workshop. He reiterated the purpose of the workshop. Tim Mealey of the Meridian Institute, who served as the workshop facilitator, walked through the agenda and suggested ground rules for the workshop. Mr. Mealey stressed that the objective of the workshop was not to achieve a consensus, but rather to share individual perspectives and points of view.

### **Overview and Rationale for the Proposed Rule and the New Approach to Planning**

Fred Norbury, Director of Ecosystem Management Coordination, USDA-FS, provided participants with an overview of the proposed changes to planning rule compared to the rule promulgated in November 2000, as well as the 1982 Planning Rule. He explained that reducing the time and resources the Forest Service devotes to planning – projected to be \$1 billion over the next decade – is the primary reason for revising the 2000 Planning Rule. He quoted a May 4, 1979 report from the Committee of Scientist to stress both the importance of and the complexities associated with the NFMA requirement to provide for diversity of plant and animal communities. He reiterated the workshop objectives and stressed his keen desire for participants to help the Forest Service identify a practical and scientifically credible approach to meeting this requirement. Copies of the slides used in this and all other presentations made at the workshop can be found in the appendices to this document.

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Lisa Freedman, Director of Resource Planning and Monitoring, Pacific Northwest Region, USDA-FS, described a prototype forest plan that reflects the approach to planning in the Proposed Rule. Similar to local government comprehensive land use plans and organizational strategic plans, a key feature of the new approach is for plans to be even more focused on establishing a shared vision of desired conditions at a strategic level and to tier other aspects of the plan from the vision. She presented a hierarchical conceptual framework – including: mission, vision, strategies, tactics, and projects – and used specific examples to explain how NFMA requirements for the planning process would be met within this framework. She concluded with cost savings estimates the Forest Service believes may be possible from the proposed new approach to planning, and an explanation of the implications the new approach may have for the NMFA requirement for plans to provide for the diversity of plant and animal communities.

### **Initial Reactions to the Proposed New Approach to Planning**

Following the opening presentations, workshop participants were assigned to five separate breakout groups, which they participated in during three separate sessions conducted over the course of the workshop. The first breakout session provided participants with an opportunity to express their views regarding the proposed new approach to planning and the relationship between the new approach to planning and the statutory requirement for plans to provide for plant and animal diversity in the context of multiple-use objectives.

Following lunch on the first day of the workshop, the facilitator gave a brief verbal report of the discussions that took place in the first breakout session. As was true throughout the workshop, a wide variety of views were expressed and there was no attempt to reach a group consensus or any other form of a group conclusion. The facilitator reported that during the first breakout session many participants expressed a variety of concerns with the proposed new approach to planning, while many others expressed support for both the underlying rationale for the Proposed Rule and the basic thrust of the proposed new approach to planning. Some of the prominent concerns included the degree of discretion afforded the Responsible Official under the Proposed Rule, both in general, and in relation to NEPA documentation. Many participants expressed concerns about the changes of the words ‘shall’ and ‘must’ in the 2000 Rule, to ‘should’ in the Proposed Rule. Others expressed support for the practicality that would result from this more flexible approach. (See Section III of this document for a thorough summary of the points raised in the first session of the breakout groups.)

### **Presentations and Discussion of Options 1 and 2**

Chris Iverson, Assistant Director of Wildlife and Threatened and Endangered Species Planning, USDA-FS, presented an overview and described key distinguishing features of Option 1. Iverson stated that Option 1 was designed to retain many of the basic modifications that were made in the 2000 Rule to the ‘viability standard’ and yet increase management flexibility by moving many of the prescriptive ‘how to’ elements to the Forest Service Directive System. As was true in the 2000 Rule, Option 1 makes a clear distinction between ecosystem diversity (course filter) and species diversity (fine filter), but Option 1 explicitly calls for a sequential and hierarchical approach starting with the ‘course’ and moving to the ‘fine’ filter. With regard to ecosystem diversity, Option 1 states that plans ‘should provide for measurable progress toward the maintenance or restoration of ecological conditions that will support the diversity of plant

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and animal communities and tree species and other characteristics of ecosystem diversity.’ With regard to species diversity, Option 1 states that plans ‘should provide a high likelihood of supporting over time the viability of native and desired non-native vertebrates and vascular plants well distributed within their ranges in the plan area.’

Jack Waide, Systems Ecologist, Research and Development, USDA-FS, presented an overview and described key distinguishing features of Option 2. He noted that Option 2 was explicitly designed to provide a scientifically defensible alternative to the retention of the 1982 ‘viability standard’ in Option 1. Under Option 2, plan decisions, ‘to the extent feasible, should foster the maintenance or restoration of biological diversity in the plan area, at ecosystem and species levels, within the range of biological diversity characteristic of native ecosystems within the larger landscape in which the plan area is embedded.’ In addition, plan decisions ‘must identify and evaluate the special role and unique contributions of National Forest Systems (NFS) lands in maintaining and restoring biological diversity within the larger landscape in which plan area is embedded.’ Option 2 requires the Responsible Official to identify and evaluate species for which substantive concerns exist regarding their continued persistence in the planning or assessment area.

At the conclusion of the plenary session on the afternoon of the first day, participants went back into breakout groups during which they were asked to use a suggested set of five criteria for evaluating the two options including: a) statutory agreement; b) scientific credibility; c) clarity of analytical process; d) clarity of management standard; and e) practicality. Participants were asked to share their thoughts about any other criteria they would use to evaluate the options. Each group then systematically evaluated each option against the five (or more) criteria. Four groups completed the exercise by applying the criteria first to Option 1 and then to Option 2. One group decided to tackle the assignment by discussing both options simultaneously, criterion-by-criterion.

Report outs from the second breakout session occurred on the morning of the second day of the workshop. With regard to statutory agreement, there were clearly divergent views expressed about the relative importance of how best to balance the NFMA biological diversity and multiple-use requirements. With regard to the interplay between scientific credibility and practicality, Option 2 was seen by many as being more up-to-date with the still emerging and evolving ‘state of the science,’ but it may not be as practical to implement as Option 1. As with the general comments on the Proposed Rule, however, many expressed concerns about the scientific credibility of Option 1, given the level of discretion that is afforded the Responsible Official under this option. Many expressed the desire to review the content of the FS directives for implementing the proposed rule before passing final judgment on either Option 1 or Option 2. Many additional views were expressed and it is not possible to capture the full breadth, depth, and diversity of views expressed by 118 workshop participants on Options 1 and 2 in an executive summary. For a detailed itemization of the comments made in the second breakout session, see Section V of this document.

## **Presentations and Discussions of Alternatives to Options 1 and 2**

On the evening of the first day of the workshop, several participants presented alternatives to the two options contained in the Proposed Rule in a plenary session. Following each presentation, participants had an opportunity to ask clarifying questions. The presenters included:

- John Haufler, Ecosystem Management Institute, who presented an approach referred to as ‘Option Z’;
- Norman Johnson, Oregon State University, and Steve Mealey, Boise Cascade Corporation, who jointly presented an alternative they referred to as a ‘Community-Based Approach’;
- Ray Vaughn, Wildlaw, who presented a recommendation for the FS to continue to rely upon and make a good faith effort to implement the 1982 Rule;
- Don Waller, University of Wisconsin-Madison, who presented what he referred to as the ‘Scientists’ Alternative’; and
- Jim Walls, Lake County Resources Initiative, who presented a recommendation for the FS to make use of the Land Management System (LMS) forest management planning and visualization tool.

In the third and final breakout session, conducted during the morning of the final day, participants were asked to react to these alternatives and share their views about additional alternatives the FS should consider to address the statutory requirement for plans to provide for diversity of plant and animal communities. Report outs from this session occurred during the plenary session conducted in the afternoon of the final day. For a detailed itemization of the comments made in the third breakout session, see Section VII of this document.

Many participants felt that Haufler’s ‘Option Z,’ which had a strong emphasis on applying the ‘course filter’ of community diversity, contained scientifically credible elements and benefited from a call for a performance-based management standard. Some expressed concerns, however, about the need for clear definitions of key terms such as ‘historical disturbance regimes’ and how to determine ‘representativeness’ of community diversity, a key aspect of the proposed performance-based management standard.

The ‘Community-Based Approach’ proposed by Johnson and Mealey included a three-tiered framework that focused first on assessing the diversity of communities in the first tier and then turned to threatened and endangered species and other sensitive species in the second and third tiers. Many participants expressed concerns about key assumptions made in the presentation of this alternative, including the reliance on species habitat relationship information and over reliance upon the regulatory agencies with the prime responsibility for implementing the Endangered Species Act (ESA). They felt that this approach would not meet the NFMA requirement to provide for plant and animal diversity and it would make it more difficult to avoid listing species as threatened or endangered.

Many participants expressed support for the recommendation from Vaughn that the FS should continue to rely upon and make a good faith effort to implement the 1982 Rule. However, the discussion of this option was not always focused solely on the NFMA requirements for plans to provide for diversity of plant and animal communities. Rather, it appeared to be focused more

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on broader questions regarding the underlying premise of the Proposed Rule that there is an excessive amount of time and resources currently devoted to planning. Specifically, many participants expressed the view that promulgation of a new planning rule at this time will result in many years of new case law in order to reach the level of clarity that exists with implementation of the 1982 Rule. While one participant stated that either option, as written, would provide rich ground for litigation, many expressed frustration and even exasperation with the degree to which the value conflicts inherent in forest planning were being resolved through the courts rather than through collaboration and rational planning. Over the course of the workshop, a number of participants from diverse backgrounds and interests expressed support for the notion that ‘the devil you know may be better than the devil you don’t know.’ At the same time, there appeared to be widespread recognition that the 1982 Rule as written was not up-to-date with the current, and yet still evolving biological sciences, and the current, yet still evolving, practice of collaborative forest planning.

The ‘Scientists’ Alternative’ was presented as a return to basic tenet set forth in the 2000 Rule that ensures ecological sustainability as the first order priority. Much of what was recommended under this approach was to build on the basic approach that was taken in Option 2 by adding in more prescriptive language (e.g., by replacing ‘should’ with ‘must’). While many workshop participants felt that this approach would be more scientifically credible, others felt that it did not achieve the proper balance between ecological sustainability and social and economic sustainability – or the NFMA requirement to provide for diversity of plant and animal communities in the context of multiple-use objectives.

The discussion of the proposal to make greater use of LMS was often broadened in the discussions to include other computer-assisted land management planning and visualization tools. It was recognized that this recommendation was not so much an alternative to Options 1 and 2, but rather an admonition to the FS to make good use of such tools during the next round of planning regardless of what approach was taken to meeting the NFMA provisions for plans to provide for diversity of plant and animal communities.

### **Closing Comments**

The workshop concluded with closing remarks from Fred Norbury and Jim Gladen. Mr. Norbury stated that he was particularly pleased with the constructive proposals for alternatives to Options 1 and 2 and the detailed feedback the FS received on the two options. He expressed surprise about the degree of support for the 1982 Rule and some frustration that the FS had clearly not persuaded many participants of the validity of the underlying premise of this rulemaking – that there is an urgent need for a more practical, less costly, and less time-consuming approach to planning. He described a situation from his experience with forest planning and species conservation on the Tongass National Forest in which it took five years to put species protection measures in place that the Forest Service, scientists, and members of the public agreed were necessary to protect the species and prevent the need for listing under the ESA. He expressed concerns that unless we find a new, less costly, and less time-consuming approach to planning, there is a distinct possibility that the ‘social experiment of planning under the NFMA may prove to be a failure,’ and that the important decisions about management of the National Forests would be made outside of the NFMA planning process. He urged workshop participants to ‘not let the perfect be the enemy of the good,’ lest we end up with a ‘perfect planning process that is perfectly irrelevant’ to the real problems facing the National Forests.



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Mr. Gladen once again thanked participants for attending. He stated that the Forest Service received a very rich and constructive set of input over the course of the workshop. He indicated that he personally was not ready to simply select Option 1, Option 2, or any of the alternatives to these two options. While he was somewhat disappointed with this outcome, he acknowledged that there was much for the Forest Service to consider.

## **I. Introduction**

### **A. Overview and Purpose of the Workshop**

On February 18-20, 2003, 100 people participated in a USDA Forest Service (USDA-FS) Workshop on Options to Provide for Diversity of Plant and Animal Communities in Land and Resource Management Planning. The workshop, held at the National Conference Center in Lansdowne, Virginia, was conducted during the formal comment period on the Forest Service's proposed rule to revise the land and resource management planning process for National Forest System. Participants were selected through an open public nominations process and by special invitation. Participants represented a broad cross section of stakeholder groups, including people with scientific expertise and practical experience with the forest planning process.

As part of the December 6, 2002 Proposed Rule, the agency outlined two options to fulfill the statutory requirement of the National Forest Management Act (NFMA) that forest plans provide for the diversity of plant and animal communities consistent with the multiple-use objectives of the land and resource management plan. The purpose of the workshop was to obtain high quality and focused input from a diverse, balanced, and knowledgeable group of stakeholders on:

- scientifically sound and practical forest planning approaches to implementing this statutory requirement;
- strengths and weaknesses, and suggestions for how to improve upon, the two options outlined in the Proposed Rule to implement this statutory requirement; and
- any additional options to implementing this statutory requirement.

The Meridian Institute assisted the USDA Forest Service in convening the workshop and served as facilitator of the plenary and breakout group sessions during the workshop. Meridian staff prepared this summary and shared a draft of the components of this document that summarize the breakout group sessions with workshop participants before finalizing this document for public distribution.

### **B. Workshop Planning, Preparation and Participation**

A significant amount of effort went into planning and preparing for the workshop, and to ensuring the workshop was attended by a balanced and knowledgeable group of participants. On December 6, 2002, the same day the Proposed Rule was published, the USDA-FS also published an announcement regarding the workshop in the Federal Register. This announcement initiated a public nomination process in which interested stakeholders could nominate themselves or others to participate in the workshop in accordance with a set of selection criteria set forth in the notice. This process generated a total of 125 nominations. Of these, 84 individuals were invited to participate in the workshop. An additional 9 individuals from the 1999 Committee of Scientist Team and 8 representatives from several federal agencies accepted an invitation to participate in or observe the workshop. Finally, 20 representatives of the USDA Forest Service were selected to participate in the workshop, and an additional 9 FS staffs, which are a part of the core team responsible for the Proposed Rule, attended in the role of presenters and resource people.

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Invited participants represented a wide range of organizations with an interest in the outcome of the rulemaking process including:

- states, tribes, and local governments;
- both large and small companies within the forest products industry;
- representatives of other industry sectors such as mining and ranching;
- regional and national environmental groups;
- non-governmental representatives of local communities;
- academics from a variety of scientific disciplines; and
- several federal agencies in addition to the USDA Forest Service.

The expertise and experience of workshop participants was also a factor in the selection process. Workshop participants included individuals with in-depth knowledge of a wide variety of scientific disciplines relevant to the rulemaking, as well as individuals with a significant level of experience with the forest planning process.

In an effort to help workshop participants prepare for the workshop, as well as for the benefit of others interested stakeholders, the USDA Forest Service placed important background material and the content of the rule itself on the web at the following websites:

- The 2002 Proposed NFMA Planning Rule – <http://www.fs.fed.us/emc/nfma/index3.html>
- Diversity Options Workshop – <http://www.fs.fed.us/emc/nfma/index4.html>
- Planning Rule Background Documents – <http://www.fs.fed.us/emc/nfma/index1.html>

The invitation letter to the workshop encouraged participants to develop and present alternatives to the two ‘diversity options.’ The USDA Forest Service developed a set of suggested criteria for evaluating the two options, as well as any alternatives to the options and a set of questions to help guide participants who wished to develop alternatives. The suggested evaluation criteria included:

1. Statutory Agreement – Does the option meet the NFMA requirement to ‘provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives’?
2. Scientific Credibility – Is the option scientifically credible? How does it address risks, uncertainties, and gaps in scientific information?
3. Analytical Process – Does the option establish a clear and appropriate analytical process to guide analyses to be completed during planning?
4. Management Standard – Does the option establish a clear and appropriate management standard against which outcomes of the land manager’s actions are judged?
5. Practicality – Is the option practical? Can it be implemented given the budget and human resource constraints within which the Forest Service must operate?

The following questions were developed to help define and frame the issues the USDA Forest Service believes need to be addressed to develop a workable approach to meeting the statutory requirements regarding the consideration of the diversity of plant and animal communities in the planning process.

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- What elements of biological diversity (e.g., ecosystems, communities, processes, species or species groups, focal species, etc.) should be considered and evaluated in the forest planning process? At what levels of ecological organization (landscape, ecosystem, species, gene, etc.) should these elements be evaluated?
- Over what geographic areas and timeframes should diversity be evaluated?
- What is an appropriate management standard against which achievement of the NFMA diversity requirement should be judged (e.g., population viability of select taxa or range of biological diversity of native ecosystems in the surrounding landscape)? What is an appropriate baseline or reference state or condition for this standard?
- In reaching decisions regarding achievement of the NFMA diversity requirement, how should the planning process consider and evaluate differences in current condition between NFS lands (the plan area) and the surrounding landscape?
- How does a plan provide for diversity of plant and animal communities and tree species within the context of the multiple-use objectives of the plan?
- What is the capability of the Forest Service to implement Option 1, Option 2, or variations of these options in order to provide for biological diversity in a multiple-use context, given limitations on available information, personnel and financial resources?

To accomplish the objectives of the workshop, the agenda was organized around a series of presentations in plenary sessions, each of which was followed by an opportunity for participants to provide input in one of five breakout groups that met in three separate sessions during the course of the workshop. The presentations included an overview of the Proposed Rule and the prototype forest plan reflecting the proposed new approach to planning, a summary of Options 1 and 2, which were the main focus of the workshop, and five alternatives to these two options contained in the Proposed Rule that were presented by six workshop participants.

This summary is organized in a manner that generally follows the flow of the agenda. Appendix A includes a number of the documents that were generated in planning and preparing for the workshop including:

1. Federal Register notice announcing the workshop and initiating the public nomination process;
2. The invitation letter;
3. The workshop agenda and suggested ground rules; and
4. The participant list, sorted alphabetically and by breakout groups.

There are several other appendices that include copies of all materials that were presented to workshop participants. These appendices, which are an integral part of the summary of the workshop, are referenced below.

## **II. Opening Plenary**

### **A. Welcome and Opening Remarks**

Jim Gladen, Director of Watersheds, Fish, Wildlife, Air and Rare Plants, USDA-FS, welcomed participants and thanked them for coming, especially in light of the major winter storm the Washington, DC area experienced just prior to the workshop. Mr. Gladen reminded participants of the purpose of the workshop. The question of how plans should provide for diversity of plant and animal communities in the context of multiple-use is an extremely important and somewhat vexing issue. He felt that the best minds in the country were assembled and he expressed the deep appreciation of the Forest Service that such a high quality group of people were willing and able to devote two full days of their time to providing input on this important issue. He expressed his hope that at the conclusion of the workshop, the Forest Service will have received enough input to craft a successful rule. He reminded the group that this is a complex set of issues and the Forest Service does not expect the group to reach agreement. Instead, the agency is looking for scientifically sound, practical input on the options and alternatives to the options. He and the other members of the FS team intend to listen carefully to input as they proceed with their effort to craft a successful rule.

### **B. Review of the Agenda and Suggested Ground Rules**

Tim Mealey of the Meridian Institute, who served as the lead facilitator, also thanked the participants for attending in light of the historically significant storm that occurred just prior to the workshop. He noted that the storm caused a relatively small number of participants to cancel their travel plans and were therefore unable to participate in the workshop. He thanked the handful of people who were last minute replacements for those who were not able to attend.

Mr. Mealey reviewed the agenda and introduced a suggested set of ground rules for the workshop (see Appendix A). Mr. Mealey stressed that the objective of the workshop was not to achieve a consensus, but rather to share individual perspectives and points of view. He asked participants to respect the fact that there are different points of view and to make sure their own points of view were adequately expressed and understood, while refraining from excessive point, counter-point debates and personal attacks on motives or underlying values.

Mr. Mealey explained that Meridian would prepare a written summary of the discussions that took place at the meeting. He stressed, however, that the summary would not attribute comments to individual participants and it will not be able to capture the depth and nuances associated with all of the points of view expressed during the course of the workshop. He strongly encouraged participants not to rely solely on their participation and the written summary of the workshop to accurately convey their comments on the Proposed Rule, but to submit their detailed comments through the formal comment process.

Mr. Mealey then explained how the meeting would be conducted with regard to the use of breakout groups and introduced the facilitators for the breakout groups. He noted that due to the storm and for other reasons, the number of breakout groups needed to be reduced from seven to five and he handed out a revised list of the breakout groups (see Appendix A).\*

### **C. Overview and Rationale for the Proposed Rule**

Fred Norbury, Director of Ecosystem Management Coordination, USDA-FS, spoke to the group and addressed the following questions:

- Why is the Forest Service proposing to change the 2000 Planning Rule?
- What is the Forest Service proposing to change?
- Where does the workshop fit in?

Mr. Norbury outlined a number of key improvements in the 2000 Rule compared with the 1982 Rule, including incorporation of the concept of sustainability, improvements regarding both the use of science and collaborative processes, and the inclusion of the objections process.

So why change the rule? The Forest Service is about to revise 125 plans, 40 to 50 of which are underway at any point in time. The current estimate is that each plan takes 5-6 years to reviews and cost between \$5-10 million per revision. He explained that reducing the time and resources the Forest Service devotes to planning – projected to be \$1 billion over the next decade – is the primary reason for revising the 2000 Planning Rule.

Mr. Norbury then highlighted several key changes that were contained in the Proposed Rule including: further improvements regarding the use of science, collaboration, and the objections process; changes in the level of discretion afforded the Responsible Official regarding NEPA documentation and other matters; the possibility of a new approach to planning, that he noted would be the subject of the next presentation; and, finally, changes to address the question that is the primary focus of the workshop – how plans should provide for diversity of plant and animal communities in the context of multiple-use objectives. He quoted both the NFMA as well as a May 4, 1979 report from the Committee of Scientist to stress not only the importance of the NFMA requirement to provide for diversity of plant and animal communities, but the ‘perplexing complexity’ of the issue as well.

Mr. Norbury stated that the Forest Service has estimated that the average cost to revise a plan under the 2000 Rule would be \$13 million per plan while the average cost under the 2002 Proposed Rule would be \$9-9.5 million per plan. This results in costs being reduced by about 30% or \$30 million over the next decade.

He reiterated the objectives for the workshop and stressed his keen desire for participants to help the Forest Service identify a practical and scientifically credible approach to meeting the

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\* Later in this summary the comments made during each breakout session are itemized by breakout groups using the letters that were assigned to each group at the meeting. Due to the fact that the number of groups was reduced from 7 to 5, it ended up that Groups B and Groups G from the initial list of breakout groups were eliminated. Thus, the remainder of this summary only includes references to Groups A, C, D, E, and F.

diversity requirement. Copies of the slides Mr. Norbury used in his presentation can be found in Appendix B1.

#### **D. NFMA Forest Plan Prototype**

Lisa Freedman, Director of Resource Planning and Monitoring, Pacific Northwest Region, USDA-FS, gave a presentation entitled 'NFMA Forest Plan Prototype: Charting a New Path.' She explained that she headed up a team that was charged with developing a prototype forest plan that reflects the approach to planning that is set forth in the Proposed Rule. She stated that there were a number of key objectives that the Forest Service tried to achieve in developing the prototype for the new approach to planning. These included demonstrating how the Proposed Rule will be implemented and designing a prototype that is:

- more strategic and easier to understand;
- focused in desired conceptions;
- modeled after other strategic plans (e.g., county land use plans, organizational plans); and
- utilizes current web-based and visualization oriented information technology.

Similar to local government comprehensive land use plans and organizational strategic plans, a key feature of the new approach is for plans to be focused on establishing a shared vision at a strategic level regarding desired conditions and to tier this shared vision to other aspects of the plan. Ms. Freedman presented a hierarchical conceptual framework that included: mission, vision, strategies, tactics, and projects – and explained how NFMA requirements for the planning process would be met within this framework using several examples such as:

- determination of desired conditions at the vision level;
- determination of suitable uses and special area designations at the strategy level; and
- establishment of design criteria and management standards at the tactical level.

With regard to the development of a shared vision, she noted that such a vision would be developed collaboratively. It would be one vision, but broad and inclusive rather than choosing from discrete alternatives. Subsequent choices would strive to be consistent with the shared values associated with the vision, with refinements made through the comment and objection process.

Ms. Freedman stated that there are a number of performance risks that need to be accounted for in the design of a new approach to planning, including:

- risks associated with natural environment (e.g., fire, disease, insect or other disturbances);
- risks related to the institutional environment (e.g., budget and policy changes); and
- risks due to scientific uncertainty.

She noted that monitoring was relevant to all levels of the hierarchy of the proposed new approach to planning. In other words, monitoring of each plan component will lead to adaptive changes. She stated that adapting to contingencies makes more sense than trying to make perfect predictions of environmental effects.

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She concluded with some graphic depictions of the estimated cost savings the Forest Service believes may be possible from the proposed new approach to planning, and an explanation of the implications the new approach may have for the NMFA requirement for plans to provide for the diversity of plant and animal communities. Copies of the slides Ms. Freedman used in her presentation can be found in Appendix B2.



### **III. Breakout Session One: Feedback on the Proposed Rule and the New Approach to Planning**

*The agenda called for workshop participants to address the questions listed below, which served as a guide for the breakout group discussions in Session One. The summary of the discussions that took place during the first breakout session is organized by subject headings, which were identified after the workshop was conducted to help organize the comments. The comments that were made separately in each breakout group have been retained under each subject heading and there was no attempt to eliminate redundancy across the breakout groups. This approach was taken to give the reader a better sense of the sum total of the input that was received. As noted above, there was no attempt to reach consensus during the discussion. Therefore, each item represents an attempt to summarize a comment that was made by at least one individual in a breakout group, but it may not (and likely does not) reflect the views of all participants in the breakout group.*

What is your reaction to the new approach to planning set forth in the Proposed Rule?

What should be the relationship between the general approach to planning and the statutory requirement for plans to provide for diversity in plant and animal communities?

How do practical constraints affect the ability of the FS to develop plans that provide for diversity of plant and animal communities?

#### **A. General Reactions**

##### **GROUP A – General Reactions**

- Some participants expressed anxiety about the proposed new approach to planning, and specifically the failure to address cumulative impacts, the emphasis on directives, and the fact that plans are not subject to NEPA.
- A participant stated the approach is unintelligible and hard for staff to implement. It is unclear what the goal is regarding biodiversity and how to measure this.
- A concern was expressed about developing the rule from scratch. Is the current planning rule/process broken – is there a need for a whole new paradigm? It was suggested that the number of appeals might be an indication of a problem, but not necessarily with the regulations themselves.
- Another participant noted that the flexibility inherent in the approach is a plus and flexibility is needed among regions. However, the approach needs attention to practicality and should do more to limit NEPA gridlock. It needs to ensure minimum commodity outputs for local communities.
- For some, the initial reaction was positive – the approach sets the right scale and proper focus on project plans. It aligns with the Northwest Power Planning Council (NWPPC) planning approach and confirms that this is the right direction.
- A concern was expressed about the presumption in the Proposed Rule that all lands are suitable unless otherwise stated as being the opposite of the presumption in the 2000 Rule. Others liked this approach because they believe that it will enable projects to be initiated and implemented.

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- Concerns were expressed over the loss of ecological sustainability as an overarching goal, above social and economic factors.
- Some liked the flexibility inherent in the approach – the flexibility to use currently available information, and for plans to change over time.
- Some thought the cost analysis was naïve, that there is actually a potential for more costs and litigation under the proposed approach.

### GROUP C – General Reactions

- Several participants expressed concern regarding the ability to evaluate the Proposed Rule when it is unclear what the directives will say. A participant expressed concern that the Forest Service will develop the directives without the benefit of public input.
- Participants expressed a concern about the lack of measurable standards in the rule and the possibility that Responsible Officials will have different interpretations of the rule resulting in the rule being applied inconsistently across the nation.
- Participants suggested that the proposed new approach to planning would still result in too much of a focus on details. It needs to go further to ensure the planning process will focus on the strategic level.
- Participants asked who develops the vision and desired outcomes in the planning approach. The local perspective as well as the national perspective needs to be taken into account. There was concern that issues will fall through the cracks creating a cumulative effect where issues are neglected.
- Participants made several comments on the positive aspects of the proposed approach to planning. It was suggested that the proposed approach could be implemented on the ground, which would make it less prescriptive and allows for flexibility. The emphasis on strategic-level of decision-making is good.
- It was stated that the proposed planning process is flawed as it is based on future predictions and the potential exists to read into what may not be there. This raised issues regarding planning based on land capacity.
- It was suggested that it is important to first assess the ecological capability of the land (i.e., what the land can handle) and then base the vision and management decisions on such an assessment.
- It was suggested that the Proposed Rule does not specify how to address issues that transcend individual unit boundaries. Several individuals stressed the need to do planning based on ecological regions/landscapes. They suggested that planning process set forth in the Proposed Rule should include a requirement for eco-regional assessments, otherwise it will not happen. Different options for achieving this were suggested.
- A participant suggested that the example of the Southern Appalachian assessment be followed, where individual forest units, the public, and agency personnel collaborated to develop an eco-regional plan based on questions developed by agency personnel and the public. This ties back in with hierarchical concerns.
- It was suggested zoning is one option for solving planning and land management issues.

### GROUP D – General Reactions

- Participants suggested that the vision is vague and it is unclear who will be involved in determining the desired outcomes of the planning process.
- It was also suggested that the vision and the regulations do not match. How will feedback and changes to plan be accomplished? The regulations do not get us there.

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- A participant expressed concern about the cost of planning. While important, it could be argued that a focus on planning is directing limited resources away from forest management. The FS needs to find a way to adequately plan, but not at the expense of plan implementation.
- While a \$300M savings at the federal level is significant, there was a concern that the savings may come from management responsibilities being delegated to a more local level. If this is the case, who will pay for this critical local management?
- A participant asked if there is anything wrong with the 1982 rule?
- There were several comments on the positive aspects of the new approach to planning. The resources dedicated to management are good and the approach is result oriented. The flexibility built into the new rule will better allow for the incorporation of on the ground conditions.
- A participant stated that management boundaries and political boundaries are sometimes different and this can make it challenging to manage for diversity.
- Several participants suggested that there is a sense of urgency and a prevailing attitude from the FS that ‘this is too hard’ (managing for species viability).
- Several participants suggested that trust is lacking. Almost everyone agrees that on the ground implementation is key, but few are sure if it will be carried out appropriately.

### GROUP E – General Reactions

- A participant said that the new approach to planning envisioned in the Proposed Rule (e.g., the importance of developing a vision and strategy) captures a lot of the improvements to the planning process. The level of detail in the Proposed Rule to guide the planning process is appropriate.
- Some participants felt that the new approach to planning does not resolve the tension between those that demand absolute certainty of what will happen and those that want broad general direction.
- A participant said that it is not clear what about the 2000 Rule is broken. The analysis presented to date appears to be limited to a ‘business – type’ evaluation.

### GROUP F – General Reactions

- Some participants said that the new approach to planning is very complex. Others thought the proposed new approach is simpler.
- One participant questioned, ‘Is the forest plan really just a zoning map?’
- A participant said that there is no guidance for addressing watershed issues.

## **B. Vision/Plan Implementation**

### GROUP D – Vision/Plan Implementation

- A participant said that the rule is past the level of complexity for which effective implementation is possible. Some participants were also concerned that the funding is not there to support the level of complexity present in the rule.
- Some participants felt that there was a feeling that detailed guidance should not be in the legislation but should be determined at a lower level. There was support for the handbook to contain the directives so that they will be easier to update and there will be greater flexibility in how management is carried out.
- Some participants expressed concerns about including the directives in the handbook as the development of the directives will not be a completely transparent process that is open to the

public. These stakeholders thought that the detail should be included in the rule to allow for public comment. In addition to public comment, a mechanism is needed to facilitate collaboration with other stakeholders and ensure public involvement.

- Some participants were concerned that the scale of the planning unit is too small and that a regional component is needed. Planning timescales were also thought to be too limited and should be longer to mimic the pace at which forest conditions change.

#### GROUP E – Vision/Plan Implementation

- Some participants felt that it is not clear how the Proposed Rule will ensure forest plans are implemented in a manner that is consistent with the vision and that there is too much that is left unclear about whether and how the vision of the plan connects with its implementation.
- It was stated that this resulted in a need for more mechanisms to ensure consistency between the vision and other aspects of the plan and its implementation. Specifically, the Proposed Rule does not require that project implementation be consistent with the vision. Projects merely have to ‘disclose’ the relationship between the vision (desired condition) and the project (§ 219.10). This gives too much discretion to project level approvals to ultimately direct the overall management of the forest in contradiction to the vision set forth in the forest plan.
- Participants raised the same concern about the provision that allows plans to be amended to change standards during project approval (§ 219.10(d)(3)) and the provision that interim amendments ‘may be used to establish plan direction’ and are not subject to the objection process (§ 219.7(f)).
- A participant suggested that the Rule should clarify that the vision to be developed for each land and resource management plan must stay within the bounds of what the ‘ecosystem can stand’ and that the vision to be developed for any particular forest plan should be constrained by NFMA and Multiple Use and Sustain Yield Act (MUSYA). Other laws including ESA, CWA, etc. provide further direction but should not be considered the driver for planning purposes.
- It was also suggested that the planning process is needs based and the issue of whether or not the needs will be addressed on the ground and that the FS is great at developing strategic plans that are not fully implemented and are not applied to daily business.

#### GROUP F – Vision/Plan Implementation

- Participants expressed concerns that the source for the overall vision for a forest that would be generated in the new approach to planning should not come from the ‘top down’ and it was suggest that there is a greater need for scenario analysis in order to get to a shared vision.

### **C. NEPA/Cumulative Impacts**

#### GROUP A – NEPA/Cumulative Impacts

- A participant expressed the concern that if plans get too far removed from the NEPA process that the NEPA burden will be placed disproportionately on projects.
- Some participants expressed discomfort with the ambiguity of this approach vis-à-vis NEPA, i.e., its’ lack of specificity about whether NEPA would be applied to a plan or not, and the lack of guidance regarding how to decide.
- Regarding cumulative impacts, some participants said they were unclear about how the broad scale assessments would work and suggested that ‘regional assessments’ larger than the boundaries of national forests are needed for many forests.

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- A participant said that cumulative impacts analysis can be done without NEPA, but NEPA can provide a necessary context for this analysis.
- With regard to cumulative impacts, some participants said that they were concerned less about NEPA and more about zoning.
- One participant stated that while the rule does not specify assessing cumulative impacts, it does require NEPA, which includes cumulative impacts. The question then arose – how could the public be involved in reviewing cumulative impacts if a categorical exclusion is applied under NEPA? A participant noted that the Forest Service would have to justify any categorical exclusion.

### GROUP E – NEPA/Cumulative Impacts

- A participant said that allowing more discretion about how NEPA documentation will be accomplished at the plan level will shift the burden for meeting NEPA requirements to the project level. A concern was expressed that this shift will take away our collective ability to fully analyze alternatives and address environmental impacts at the broader scale of the plan level.
- Other participants felt that the shift in the NEPA emphasis does not compromise the intent of NFMA. They suggested that there are still other applicable laws and regulations and that the Proposed Rule makes it clear that under certain circumstances a full NEPA analysis (i.e., an Environmental Impact Statement (EIS)) may still need to be completed at the plan level.
- A participant suggested that it is essential to have a copy of the updated Guide and/or Manual to review at the same time as the Proposed Rule in order to fully assess the appropriateness of the changes in emphasis regarding NEPA analysis between the 2000 Rule and the 2002 Proposed Rule.
- Participants expressed a concern that providing greater discretion regarding NEPA documentation at the plan level will limit the amount of input necessary to govern the ‘lower elements’ of the plan and it was suggested that NEPA analysis should be conducted at the broad plan level and not left for application at the project level. A participant stated that one reason is that adequate cumulative impact analysis cannot be done at the project level and that for many issues, the impacts have to be analyzed at the broader plan level.
- A concern was expressed that use of the term ‘should’ instead of ‘must’ or ‘shall’ in many places in the regulations give the Forest Service too much discretion and it was suggested that defining these terms in guidance documents, which are not enforceable, like the regulations, does not provide sufficient safeguards.
- A participant stated that the notion that categorical exclusions from NEPA analysis can and should be used for plan revisions and amendments is not realistic. Others felt that the categorical exclusion (CE) might be applicable in some cases, but that CEs would be exceptions rather than the rule and that this should be made clear in the regulations.
- A participant said that the statutory significance of NEPA and NFMA is not the same (NFMA has more of a planning focus) and that in the 2002 Proposed Rule, these two statutes are represented with similar significance.
- Participants felt that the discussion on cumulative effects is not sufficient and that the discussion needs to include a broader description of the range of cumulative effects (e.g., in the Sierra Nevada the focus has been on old growth – should the vision now shift to restoration?)
- It was suggested that the Rule should make it clear there is a need to address cumulative impacts at the plan level as well as the project level.

## **D. Public Involvement/Collaboration**

### **GROUP A – Public Involvement/Collaboration**

- Some in the group noted the increased role for local involvement as a plus.
- A participant noted that most people are interested in a watershed or a particular species, and that the proposed new approach could result in a decrease in involvement by a large segment of the public who would not see an opportunity to comment on their particular area of interest.
- Many participants in the group liked the emphasis on use of a collaborative approach and it was noted that a lot has changed regarding collaboration since 1982.
- Other participants said that public involvement is a constraint/issue and that because of the ease of commenting, hundreds of thousands of comments are received on each Forest Service plan, and this raises a question about how to bring ‘collaboration’ into the equation and adequately integrate all public input.
- A participant said that the Forest Service speaks well with particular audiences, less well with the general public.

### **GROUP C – Public Involvement/Collaboration**

- Several participants expressed concern that the planning process contains no clear assurances of meaningful public participation and it is unclear where public participation fits into the process.
- A participant stated that the 2000 Rule had a clear definition of collaboration and that the lack of language regarding collaboration makes it difficult to enforce and creates more problems.
- A participant stated that the planning process has a strong inward focus rather than outward focus and that there are no clear guidelines. This participant raised the question of how public comment/input will be part of the process.

### **GROUP F – Public Involvement/Collaboration**

- Participants were unclear about roles and responsibilities in the planning process and said that there is confusion about where decisions are made, where goals are established, and about public participation.
- Some participants felt the proposed process would discourage public input. They were unclear about the public involvement process, and that the means by which public input would be achieved under the new approach was not made simpler.

## **E. Degree of Discretion/Accountability**

### **GROUP A – Degree of Discretion/Accountability**

- Some participants said the Proposed Rule goes too far in asking people to ‘Trust me, i.e., the Forest Service’ and stated it is hard to know what people would actually do on the ground.
- A participant stated that this effort is reinventing planning and that it needs more time. It was also suggested that trust is the underlying issue and that the question is how to alter institutions to allow flexibility, retain accountability, and reinstate trust.
- A question was raised about the meaning of the word ‘should’. A participant questioned if it means the action is discretionary, or that it must be done unless there exists a very strong

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rationale for not doing it. A participant suggested that the Courts interpretation will be most important in this regard and that the rule needs to say exactly what it means.

- A participant expressed an alternative perspective suggesting that it is good in many cases to say 'should' instead of 'must' because it provides more flexibility.
- Participants expressed concern expressed about the potential of everything becoming a categorical exclusion.
- One participant noted that the approach seems to be oriented at maximizing Forest Service discretion while lacking sufficient accountability.

### GROUP C – Degree of Discretion/Accountability

- Some participants expressed concerns regarding the lack of clarity about how the proposed planning process relates to the FS hierarchy. They raised the following questions:
  - Who do we trust?
  - Who is in control?
  - How does the FS hierarchy fit into the proposed approach to planning?
  - How do we determine the need for change?
- A participant said that there is a need for an implementation process that takes into account stakeholders and key personnel and where they fit in the model before creating or using the new model and the plan details should include who does what by what date.

### GROUP D – Degree of Discretion/Accountability

- A participant said that the discretionary nature of oversight is concerning and that it is hard to see how the 2002 rule would be enforceable.
- A participant suggested that there is too great of a reliance on the responsible official and there is concern that leadership will turnover and given that much what the responsible official does is voluntary, there will be a lack of consistency in management. In addition, it was suggested that the coarse filter (community level rather than species level focus) provides additional discretion to local officials in terms of which species are monitored and thus protected and there is concern that this approach will allow some species to fall through the cracks.
- A participant said that it would be hard for the public to understand the discretionary nature of the oversight granted to the responsible official.

### GROUP E – Degree of Discretion/Accountability

- A participant said that there is a disconnect between the broad language regarding the discretion of the Responsible Official and the requirements of § 219.11 on Monitoring and Evaluation and that the broad language should be made consistent with the detailed requirements.
- A participant stated that the shift in decision-making authority (i.e., who is the 'Responsible Official') from the Regional Forester level to the Forest Supervisor level envisioned in the 2002 Proposed Rule makes this Rule less reliable than the 1982 Rule. (Note: The 2000 Rule also named the Forest Supervisor as the 'Responsible Official'.)
- For one participant, the shift in responsibility of the Responsible Official to the Forest Supervisor level was not viewed as being in the interests of Tribes and was viewed as being inconsistent with other NFMA provisions.

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- Another participant agreed that shifting the primary responsibility of the Responsible Official to a lower level in the FS is not the right way to achieve the intended goals of the planning process.
- A participant suggested that including an objection step in the planning process is a positive step and that focusing the plan at a higher level and providing less detail and more discretion in the Rule will help save money.

### GROUP F – Degree of Discretion Accountability

- A participant raised a question about the legal implication of moving some of the more detailed requirements from the rule into the directive system.
- Several participants felt there is too much discretion allowed in the new approach, too much broad scale analysis and insufficient analysis of cumulative effects.

## **F. Use of Science**

### GROUP A – Use of Science

- Some participants felt that science should not be used to make decisions but rather it should be used by decision makers to understand the ramifications of different alternatives because the decisions are ultimately political.
- Other participants expressed concern about the reduced emphasis on the use of science, as evidenced by the loss of opportunities for peer review. One participant said that the peer review process is what makes science work.
- A participant suggested that there might be ways the Forest Service can help support staff in obtaining good scientific information.
- Some participants like the way science is handled in the 2000 rule.
- Another participant characterized the 2000 rule as the ‘scientists’ rule,’ and the 2002 rule as the ‘planners’ rule,’ and called for a balance between the two.
- Some participants acknowledged that all necessary science is not available in-house or at the district level. Therefore, it was recommended that peer review be used as needed in order to access the best science available.

### GROUP D – Use of Science

- A participant suggested that with the lessened role of science there is no clear path between the planning process and maintaining diversity.

### GROUP E – Use of Science

- Some participants in the group indicated the need for scientific peer review of the diversity options in the Proposed Rule.

## **G. Approach to Species Viability/Diversity**

### GROUP D – Approach to Species Viability/Diversity

- A participant stated that the 2002 rule excludes non-vascular plants and invertebrate organisms from analysis and that given the importance of these organisms to ecosystem health, this is a setback to diversity.
- A participant said that species diversity (fine filter) should have the primacy due to the ESA. Community level analysis (coarse filter) is okay but the FS has to track some species too and



that pressures such as climate change may affect species ranges but not their associated communities. It was also noted that the coarse filter might miss some important trends.

- Others felt that a focal species approach is needed and that this approach was captured in the 2000 rule but is lost in the 2002 revision. It was also suggested that focal species are a good application for planning but there also need to be mechanisms to provide links between the species, community, and landscape levels.
- A participant said that species approach (fine filter) is not impossible and that a lot of data already exists (e.g., State Natural Heritage Programs track 20,000 species and these could be an important source of status information.)

## **H. Components of Risk: Uncertainty and Sensitivity**

### **GROUP C – Components of Risk: Uncertainty and Sensitivity**

- A participant said that the current plan uses the term ‘risk’ to describe uncertainty and it also needs to take into account the second component of risk, which relates to sensitivities.
- It was also stated that the sensitivity is the responsiveness to external conditions, the minimum signal required to produce an output, and some places in the Proposed Rule refer only to uncertainty when they should also refer to sensitivities.

## **I. Monitoring and Performance Standards**

### **GROUP A – Monitoring and Performance Standards**

- Several participants noted that monitoring requirements are weak or de-emphasized.
- Some participants suggested that there be a requirement to have funds for monitoring in place and that it is more important to allocate money for monitoring than to speculate on impacts at the project level.

### **GROUP C – Monitoring and Performance Standards**

- A participant said that the proposed planning process has no performance or outcome-based standards. It was suggested that the Proposed Rule should establish a measurable, population-level performance standard for the planning process.
- Other participants felt that such standards placed the agency in an impossible position and they should not be established.
- A participant stated that the planning process and its implementation should focus on on-the-ground results and use monitoring to assess the impact of actions and their effects.
- A participant said that the plan should also identify how ecosystems will be characterized.
- A participant suggested that the FS can use the NatureServe Natural Heritage database and it can be established and constantly revised.
- A participant suggested the FS should collaborate with other agencies to share their databases.

### **GROUP D – Monitoring and Performance Standards**

- Some participants expressed concern about taking away the requirement for monitoring and the possibility that cumulative effects could be overlooked. It was suggested that monitoring is absolutely essential for ensuring species viability over the long-term and that declining species in particular need careful monitoring.

- A participant said that monitoring and feedback mechanisms are needed to ensure that adaptive management occurs and that there were questions about how continuous review and midcourse corrections would be implemented under the 2002 rule.
- There was also concern about continued funding for monitoring and the potential for inconsistencies in how monitoring is conducted and what measures will be used.
- Some participants felt that for the sake of scientific credibility there is a need to assure that monitoring is happening and that the results from that monitoring are feeding back into the plan.
- A participant stated that monitoring is expensive and therefore, if it is discretionary it likely will not be done.

## **J. Cost and Other Practical Constraints**

### **GROUP A – Cost and Other Practical Constraints**

- A participant said that one practical constraint is bringing the 1982 rule up to date and that practical constraints are used as an excuse not to do the job, and yet the job gets done.
- A participant suggested that the FS should look at what it can do, rather than focusing on constraints. It was also suggested that political factors could also present constraints.
- A participant said it is more constraining to bring science in at the project level than at the plan level. It was also suggested that incorporating science well up front might reduce costs later in the process later on.
- One participant questioned whether cost and ‘analysis paralysis’ are the real problems.

### **GROUP D – Cost and Other Practical Constraints**

- A participant said that cost-benefit analysis is being done without complete information and that the full economic value of natural services (clean air, clean water, erosion prevention, etc.) needs to be revisited.
- Some participants expressed concern that practical constraints such as time and funding are simply an excuse for not conducting effective planning and monitoring and that the FS needs to find a balance and set realistic goals for itself that can be met.
- Other participants stressed that there are budget realities and thus planning needs to be streamlined. It was also suggested that the FS can either conduct projects on the ground or watch the forests burn and the soil get washed away and there are risks to doing nothing.

### **GROUP E – Cost and Other Practical Constraints**

- A participant suggested that the coverage of the three pillars of sustainability is more equal in the 2002 Proposed Rule than in the 2000 Rule and that this shift has cost implications in that the cost burden will be transferred from the planning level to the project/implementation level.
- A participant stated that it is unclear whether the comparative costs for planning under the 2002 Proposed Rule will be less than those under the 2000 Rule as there is no real track record for implementing the 2000 Rule and that there is not enough background information about the relative costs for planning or implementation of either the 2000 or 2002 Rules to provide a comparison.
- In regard to comparative cost shifts – from planning to implementation – it was suggested that it is not really possible to know whether this will occur and that this needs further analysis.

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- One participant felt that the focus on outcomes rather than process is appropriate and that there may be cost savings with the proposed modifications to the planning process, but there may also be other financial repercussions that are not yet clear. For example, while there may be cost savings in the planning process based on the 2002 Proposed Rule, effective management, and therefore costs, will shift to the monitoring phase.
- Another participant stated that the entire Proposed Rule puts too much emphasis on allowing resource constraints to dictate management actions and that while the regulations cannot assume unlimited resources, they should not be designed to accommodate the current reality of poor resource allocation among regions and forests. It was also suggested that the regulations should set the standards for what is needed to fulfill legal requirements and then it is the duty of the Forest Service to assure that resources are fairly allocated among regions to best accomplish its mission. Otherwise, 'lack of resources' at the local level can always be an excuse for failure to manage properly.
- A participant stated that it is not clear whether there will be cost savings between Options 1 and 2 and that there are no clear guardrails for evaluating the costs of the options, so it is hard to determine the cost differential.
- It was suggested that reducing the cost of planning versus plan implementation makes the idea of simplifying the planning process and making the plan a more conceptual document an appealing approach.

### **GROUP F – Cost and Other Practical Constraints**

- Some participants felt that there is too much emphasis on cost cutting and that the cost savings assessment is one-dimensional in that it does not include long-term costs including lawsuits and monitoring costs. It was also suggested that long-term financial impacts could be greater with too much cost cutting at the front end resulting in 'management by lawsuit.'
- Other participants felt that the funding issue is a real constraint and that not enough funds are available for proper planning and the proposed approach was appropriate to address the problem of 'gridlock.'

## **K. Relationship Between the Overall Approach to Planning and the Diversity Requirement**

### **GROUP A – Relationship Between Planning and Diversity Requirement**

- A participant stated that the extent to which the new rule limits the importance of scientific input, it limits the ability to meet the diversity requirement.
- A participant suggested that there should be more specificity about what kind of diversity is desired and that the proposed rule leaves too much flexibility in this regard.
- A participant asked for clarification about whether the diversity requirement is currently being met under the 1982 rule.
- A participant said that the 1982 rule is out of date with regard to current conservation biology, but forests can and do make it work if they want to/have the will.
- Some participants suggested that using the 1982 Rule as a place to begin, finding agreement on what should be changed, and modifying it to reflect advancements in scientific understanding.
- Others in the group said they have heard from planners and managers in the field that the 1982 rule presents binders - they want flexibility on how to achieve goals. But, some noted, the proposed rule gets rid of the goals altogether.

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### GROUP C– Relationship Between Planning and Diversity Requirement

- A participant suggested that the planning process needs a framework where national, regional, and local questions can be addressed and that it is not clear where difficult species diversity issues will be addressed in the framework.
- One participant asked whether additional clarity is needed on the purpose of the National Forest System? What is our goal, diversity of plant and animal communities as per the NFMA or multiple-use as per the MUSYA?
- A participant suggested that the FS should concentrate on multiple use as the overarching goal, and provide for plant and animal diversity as part of multiple use and that it is unrealistic to manage for every species, measure outcomes at the ecosystem level.
- One participant thought that the rule has expanded beyond statutory requirements of 1976 NFMA.
- A participant suggested that the planning process currently does and should continue to serve as means for FS to satisfy legal requirements for numerous statutes, not just the NFMA. It was also suggested that all of the statutes that are being implemented by and through the planning process should be specified in the rule.

### GROUP E– Relationship Between Planning and Diversity Requirement

- A participant said that the FS does not have a mandate to manage land solely for the purpose of ‘providing for species diversity’ without regard to other statutory constraints and responsibilities (e.g., multiple use, the need to preserve grazing areas, etc.) and the requirement to provide for plant and animal diversity is often used as leverage to reduce the emphasis on socioeconomic concern at both the plan and project levels. There is a need to strike a balance between achieving the requirements of multiple-use and the push for preeminence of diversity.
- A participant suggested some species should be addressed at the landscape and plans level – not the project level.
- A participant said that what is meant by ‘provide for’ species diversity should be defined (e.g., indicate the minimum and maximum of amount of species diversity that is required to meet the statutory requirement.)

## **IV. Presentation of Options 1 and 2**

Tom Darden, Director of Biological and Physical Resources, Southern Region, USDA-FS, and a member of the Forest Service's team for developing the Proposed Rule, provided an overview of the Forest Service's efforts to develop the two options and introduced the presenters.

### **A. Option 1**

Chris Iverson, Assistant Director of Wildlife and Threatened and Endangered Species Planning, USDA-FS, presented an overview and described key distinguishing features of Option 1. Mr. Iverson stated that Option 1 was designed to retain many of the basic modifications that were made to the 'viability standard' in the 2000 Rule, and yet increase management flexibility by moving many of the prescriptive 'how to' elements to the FS Directive System.

As was true in the 2000 Rule, Option 1 makes a clear distinction between ecosystem diversity (course filter) and species diversity (fine filter). Option 1 explicitly calls for a sequential and hierarchical approach starting with the 'course' and then moving to the 'fine' filter.

The information that would be necessary to implement Option 1 would include identification of the characteristics of ecosystem diversity such as composition, structure, processes, as well as the status of these components. It would also include identification of the characteristics of species diversity such as species richness, abundance, distribution, and status; including the explicit identification of 'species at risk.' Mr. Iverson noted that while the inclusion of the landscape level of analysis was not as prominent as it is in Option 2, Option 1 does include identification of the contribution NFS lands make to ecological sustainability relative to the larger assessment area. He stated that all of this information is analyzed in proportion to the issue, ecological risks, and the availability of information. He noted that the agency could still affect the level and depth of analysis by its proposed action and range of alternatives.

With regard to the application of the 'course filter' of ecosystem diversity, Option 1 states that 'plan decisions should provide for measurable progress toward the maintenance or restoration of ecological conditions that will support the diversity of plant and animal communities and tree species and other characteristics of ecosystem diversity.' Additional details describing the interpretation of this general standard would be included in the Directive system. Mr. Iverson stated that there are three possible approaches to accomplishing this objective including: species conservation strategies; emulating the effects of natural disturbances; and managing within the range of natural variability.

With regard to the application of the 'fine filter' of species diversity, Option 1 states that 'plan decisions should provide a high likelihood of supporting over time the viability of native and desired non-native vertebrates and vascular plants well distributed within their ranges in the plan area.' Mr. Iverson stated that accomplishing this objective would include consideration of species life history and distribution, as well as factors that are not under the authority or control of the agency such as climate, ecological disturbance events, and activities on adjacent non-federal lands. It would also require the development of standards for 'species at risk' that are not addressed under the 'course filter' of ecosystem diversity.

Mr. Iverson concluded his presentation with a challenge to the participants. He stated that the species viability standard of the 1982 Rule is currently being successfully applied on every National Forest. He asked whether there is a ‘better’ approach and indicated that may be at least two alternative approaches: 1) to use a pure community level (coarse filter) approach; or 2) continue to address species diversity but not to use the viability standard. The 2000 Rule defines species viability as: ‘A species consisting of *self-sustaining* and *interacting populations* that are *well distributed* through the species’ range. Self-sustaining populations are those that are sufficiently abundant and have sufficient diversity to display the array of life history strategies and forms to provide for their *long-term persistence* and *adaptability over multiple generations*.’

If participants believe it is important to retain a species diversity component, but not viability, Mr. Iverson challenged them to answer two questions. First, what should be the operational standard associated with species diversity? Should it be extirpation, persistence, continued persistence, existence, continued existence, representation, healthy, sustainable, and viable? And second, what principles describe the objective or desired future condition for species diversity? If this condition is not viability, then what principles contained within the viability definition should be omitted to define some different standard.

Copies of the slides Mr. Iverson used in his presentation can be found in Appendix C1.

## **B. Option 2**

Jack Waide, Systems Ecologist, Systems Ecologist, Research and Development, USDA-FS, presented an overview and described key distinguishing features of Option 2. He noted that Option 2 was explicitly designed to provide a clear and scientifically defensible alternative to the retention of the 1982 ‘viability standard’ in Option 1. The following sections contain the content of a subset of Mr. Waide’s presentation. The full presentation can be found in Appendix C2.

### **1. Considerations in Development of Option 2**

- Provide clear, scientifically credible alternative to Option 1 (stimulate public input)
- Focus attention on evaluation of biological diversity – incorporates statutory language of NFMA, consistent with progress in ecology and conservation biology
- Hierarchical analyses of diversity at ecosystem and species levels of organization – primary focus on analyses at landscape and ecosystem scales, attention to species of concern nested within larger-scale ecosystem analyses
- Require evaluation of biological diversity across multiple, relevant scales of space and time – emphasize evaluations at large scales
- Focus explicit attention on spatial relations and linkages of elements of biological diversity
- Consider effects of disturbance regimes and landscape context on ability to achieve biological diversity objectives
- Evaluate differences in ecological structure and condition between NFS lands and surrounding landscape
- Require rigorous, structured suite of analyses of biological diversity, tailored to plan area and planning issues

## **2. Broad Features of Option 2**

- Focuses on broad objective of maintaining and restoring biological diversity in plan area, with two more specific goals
  - Maintain and restore diversity of ecosystems within landscapes
  - Within framework of larger-scale ecosystem analyses, maintain and restore diversity of species within ecosystems
- Three assumptions/hypotheses inherent in Option 2 (also Option 1)
  - Maintenance and restoration of biological diversity essential to long-term sustainability, function and resilience of native and managed ecosystems
  - Maintenance and restoration of biological diversity a primary indicator or surrogate measure for maintenance of key ecological processes in ecosystems
  - Providing for biological diversity in forest plans requires that ecological information and analyses be linked to scientifically based monitoring and adaptive management

## **3. Summary of Ecological Information and Analyses**

- Option based on hierarchical, structured approach to consider and assess biological diversity at two levels of ecological organization, ecosystem and species
- Analyses of biological diversity – proportional to planning issues, risks to diversity, availability of information
- Where appropriate, analyses should extend to larger landscape in which plan area is embedded
- Ecological information and analyses based upon assessment of :
  - Ecosystem diversity and species diversity
  - Further evaluations of diversity – spatial and temporal scales and patterns, human and natural disturbance regimes, landscape context
- Analyses should describe and assess contributions of NFS lands to biological diversity in larger landscape
- Ecological information and analyses – tailored to particular planning or assessment area, specific planning issues

## **4. Plan Decisions**

- In reaching plan decisions, must consider and fully disclose results of ecological information and analyses
- Plan decisions - consistent with multiple-use objectives of plan
- Biological Diversity – should foster maintenance or restoration of biological diversity in plan area, at ecosystem *and* species levels, within range of diversity characteristic of native ecosystems in surrounding landscape in which plan area embedded
  - Should consider effects of disturbance regimes and landscape context on options and opportunities to manage NFS lands to achieve biological diversity objectives
  - Standard applies at *both* ecosystem *and* species levels of organization
  - Provides a level of management flexibility – does not extend to loss of ecosystems *or* species of concern (diversity – both richness and equitability)
  - Successful implementation requires rigorous monitoring information on status of ecosystems and select species, and historical information on expected range of diversity

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- Landscape Context – must identify and evaluate special role and unique contributions of NFS lands to maintain and restore biological diversity in larger landscape in which plan area embedded



## V. Breakout Session Two: Feedback on Options 1 and 2

*The agenda called for workshop participants to address the questions listed below, which served as a guide for the breakout group discussions in Session Two. The summary of the discussions that took place during second breakout session is organized by subject headings, which were identified after the workshop was conducted to help organize the comments. The comments that were made separately in each breakout group have been retained under each subject heading and there was no attempt to eliminate redundancy across the breakout groups. This approach was taken to give the reader a better sense of the sum total of the input that was received. As noted above, there was no attempt to reach consensus during the discussion. Therefore, each item represents an attempt to summarize a comment that was made by at least one individual in a breakout group, but it may not (and likely does not) reflect the views of all participants in the breakout group.*

Review, discuss and, if necessary, modify the following proposed criteria for evaluating the options, which include:

1. Statutory Agreement – Does the option meet the NFMA requirement to ‘provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives’?
2. Scientific Credibility – Is the option scientifically credible? How does it address risks, uncertainties, and gaps in scientific information?
3. Analytical Process – Does the option establish a clear and appropriate analytical process to guide analyses to be completed during planning?
4. Management Standard – Does the option establish a clear and appropriate management standard against which outcomes of the land manager’s actions are judged?
5. Practicality – Is the option practical? Can it be implemented given the budget and human resource constraints within which the Forest Service must operate?

Discuss major strengths and weaknesses of each option in relation to the evaluation criteria.

Provide suggestions for how to improve either one or both of the options.

### A. Reactions to the Criteria

#### GROUP A – Reaction to the Criteria

- A participant raised the question as to whether or not the proposed criteria address outputs.
- It was noted that two of the criteria, scientific credibility and practicality, may come into conflict.
- Some said that only the first criterion is truly mandatory and that the rule meets the statutory requirement.
- Two additional criteria were suggested:
  1. Does the option address social/economic needs?
  2. Does the option maintain biological diversity?

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### GROUP C – Reaction to the Criteria

- After reviewing the proposed criteria for evaluating the two diversity options, the group modified Criteria 5 Practicality to include: a) clarity (i.e., being clearly understood) and b) shortening planning time.

### GROUP D – Reaction to the Criteria

The Group identified the following additional criteria and questions to consider when reviewing Options 1 and 2:

- Does it work at the local level?
- Is it unambiguous (thinking about judicial review that may occur)?
- How do options mesh with other proposed regulations (e.g., categorical exclusions for small timber sales)?
- How does it compare to the 1982 rule?
- Does it support public involvement in the process?

### GROUP E – Reaction to the Criteria

- A participant suggested that it is unclear whether and how the five proposed criteria for evaluating the options are currently being applied. Is this FS itself using these criteria to evaluate the options?
- Some participants suggested the FS should more clearly define what it means by ‘best science’ and it was noted that the definition of the term is initially presented in § 219.14, as well as elsewhere in the proposed rule. The common understanding should be applied more effectively throughout different levels of management (e.g., it was observed that there is great diversity among the Regulating Officials in terms of how ‘best science’ is understood and applied.)
- In discussing the proposed evaluation criteria, some participants suggested adding two additional criteria including:
  - Criteria 6 – Will the option reduce conflict regarding the NFMA?
  - Criteria 7 – Is the language in the option clear enough to bring about consistent application of management process and land management outcomes?

*NOTE: As is reflected below, Group E decided to evaluate the both options simultaneously against each criterion rather than to separately evaluate Option 1 and then Option 2.*

## **B. Feedback on Option 1**

### **1. Statutory Agreement**

#### GROUP A – Option 1 Statutory Agreement

Members of the group who commented about statutory agreement thought the Option 1 would not meet this criterion for the following reasons:

- The option needs to use the word ‘must’ in the viability section in order to meet the NFMA requirement.
- The option is suspect because of its focus only on vertebrates and vascular plants.
- If the option were not scientifically credible, then it would not meet the statutory requirement.
- Option 1 does not comply with the statute because it institutes major change (e.g. going from ‘shall’ to ‘should’ regarding viability) without input from an established science group.

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### GROUP C – Option 1 Statutory Agreement

- Participants had different interpretations of NFMA and whether the rule should address statutory requirements beyond NFMA provisions related to species conservation. It was suggested the FS should clarify its interpretation of the law.
- Some felt Option 1 exceeds NFMA and does not meet overall multiple-use objectives such as timber and other socio-economic uses.
- Others felt that NFMA clearly requires the FS to provide for diversity of plant and animal communities.
- It was pointed out that it is unclear whether NFMA requires managing for species or communities. The term ‘communities’ needs to be defined.
- It was suggested that the rule needs to address communities rather than individual species. Species viability goes beyond NFMA requirements.
- Several participants stated that the substitution of ‘should’ for ‘must’ or ‘shall’ in the rule is fundamentally inconsistent with statute. The change in terminology means the agency has broad discretion and is not subject to public review. They felt that the statute calls for agency accountability. Replacing ‘must’ with ‘should’ reduces mandatory nature of the statute.
- The rule needs modern language such as species, community, and ecosystem. Define regime and disturbance.
- One participant suggested a specific revision to the sustainability section, § 219.13, where it states ‘productivity... is achievable only by continuous and dynamic process of planning.’
- They felt that the term ‘only’ is not appropriate.
- Another suggestion was to switch (a) social and economic components of sustainability with (b) ecological components of sustainability on page 72799. Ecology needs to appear before social and economic components. Ecological components are the priority and the basis for social and economic decisions.

### GROUP D – Option 1 Statutory Agreement

- One participant felt that both Option 1 and 2 do not meet the NFMA requirement because they both have a heavy emphasis on only one use, which misses statutory language requiring multiple uses.
- Others felt that it does meet the requirement of multiple use, as not all possible uses must occur on a given acreage. There was a concern among some participants that multiple-use objectives such as resource extraction could take priority over the diversity of plant and animal communities).

### GROUP F – Option 1 Statutory Agreement

- Some in the group said this option meets the criterion of statutory agreement if it is allowed to go forward as proposed. Others did not think it met this criterion.
- Certain definitions need clarity, such as what actions would be considered ‘not significant’? What is meant by ‘high likelihood’ and ‘measurable performance.’
- Some in the group said that the option fails to address suitability and capability in clear terms.
- Some said that this option fails to adequately address NEPA issues.

## **2. Scientific Credibility**

### **GROUP A – Option 1 Scientific Credibility**

Several people in the group questioned the scientific credibility of the option for the following reasons:

- The large amount of discretion allowed regarding science.
- The looseness of definitions.
- The lack of specificity and detail. (This may come later in the handbook, but it is hard to know if this option is credible based on the current level of specificity in the option itself).
- Not requiring enough information.
- Too much reliance on qualitative assessments (the lack of rigor)
- The focus on vertebrates and vascular plants. (One person elaborated by explaining that fungal components are very important in forests.)

### **GROUP C – Option 1 Scientific Credibility**

- Individuals within the group raised several issues regarding the relationship between analysis and management decisions (discussed further below in number 4/Management Standard), and suggested that there is a need to clarify terminology, especially with regard to ‘species viability.’
- It was suggested that the terms ‘high likelihood’ and ‘well distributed’ need definition and that the term ‘historical range of variability’ needs to reflect historic distribution regimes not current distribution.
- A participant said that the rule should clarify that ‘desired conditions’ are not the same as ‘desired future conditions.’
- A participant said that it is not credible to limit scope to the plan area. For example, the plan area is not likely to take into account loss of forest cover.
- One participant stated that Option 1 is not credible with regard to maintaining the viability of species. It was suggested that viability rankings are possible and that mechanisms to do so are available from the private sector for use by the FS, such as NatureServe Natural Heritage database.
- Another participant expressed the view that it is impossible for the Forest Service to achieve species viability and noted that species viability may be affected by reasons outside agency responsibility. It was suggested that Option 1 does a good job of addressing long-term as well as short-term risk to species.

### **GROUP D – Option 1 Scientific Credibility**

- A participant said that the option lacks scientific credibility and that there is too much latitude granted to the responsible official. Furthermore, science is not subjective and scientific principles should be applied consistently and not vary at management discretion.
- A participant suggested that neither option suggests a rigorous scientific process and key elements such as ecosystem and species diversity are addressed, but that other levels of diversity such as the community and individual level are not.
- A participant suggested that without appropriate attention to monitoring, there is not the ability to measure change over time (comparability) and changes must be measured to ensure that adaptive management is carried out [also Option 2].
- A participant raised the question about how new science will be incorporated into the planning process, especially science generated outside the FS.

**GROUP F – Option 1 Scientific Credibility**

- Some participants suggested that there is a need for more scientific input.
- It was suggested that Option 1 is ‘an abstract of an abstract’ – there is not enough detail to know if the option meets the scientific credibility criterion.
- The discretionary nature of the regulation makes it impossible to know if it meets this criterion.
- Some expressed the view that Option 1 is scientifically credible and it would be helpful to have peer review in the process.
- Some said that on a gross scale, the option is credible but on a micro scale, more definitions are needed.
- It was stated by some that this option does not meet the scientific credibility criterion if restoration requires less analysis.
- Some asked if scientific credibility is a credible criterion in a political arena. The statement was made that credibility lies in the contents of the Directives and that management is not science.

**3. Analytical Process**

**GROUP A – Option 1 Analytical Process**

- This criterion was less of a concern to some in the group, who stated that the analytical process is less relevant at the regulatory level.
- One participant felt that it would be challenging for the FSto implement the analytical process established by Option 1 due to insufficient guidance. Another perspective was that in the absence of a specific goal, Option 1 provides too much guidance.
- Some said that the analytical process established in both options is insufficient since a NEPA EIS is not required and alternatives are necessary for a useful analysis.

**GROUP C – Option 1 Analytical Process**

- Several participants in the group expressed the view that the level of analysis should be commensurate with the types of decisions being made in the planning process.
- A participant said that data collection requirements are specified in both Option 1 and Option 2 without reference to their use in management decisions and that the decision-making authority and responsibilities of the Responsible Official needs more direction and clarity.
- A participant stated that Option 1 does a better job than Option 2 regarding analytical process and some participants disagreed.
- It was suggested that the rule needs monitoring standards and protocols to be consistent throughout the range of forest species. There is also a need to address appropriate level of reporting (forest, eco-region, species range).
- One participant stated that Option 1 does not take into account the ‘balance of harm’ such as fires and insect infestation that are larger scale than a disturbance.

**GROUP D – Option 1 Analytical Process**

- Some felt that the process is not clear or credible and that again, there is too much latitude for Responsible Official.
- Others felt that the flexibility provided is needed to make decisions so that the planning process can move forward. They stressed a need for process completion so that important

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work such as fire suppression, improvement of overall forest conditions, stream management, etc., could occur.

### GROUP F – Option 1 Analytical Process

- Some stated that this option is consistent with the 1982 Rule.
- Some said that this criterion is not met because the option is too vague and it was suggested the ‘prescriptive’ elements should be in the Rule not the Directives.
- A participant said that this criterion is predicated on the availability of information and there are different concepts of what constitutes ‘sufficient information.’
- Some said that this option is not implementable on a large scale.
- Some felt the general intent of the option is good, but there is no assurance that the intent will be carried out.
- It was stated that this option is an improvement in that we’d be looking at FS lands in the larger context (i.e., it would include consideration of additional lands).

## **4. Management Standard**

### GROUP A – Option 1 Management Standard

- Several participants in the group expressed discomfort about the lack of a goal regarding biodiversity and the apparent watering down from ‘ensuring’ viability to ‘high likelihood’. They suggested that the standard could not be clear and appropriate without a ‘final trump’ card (e.g., if social/economic concerns trump ecological considerations).
- Another frequently expressed concern was over the use of ‘shoulds’ instead of ‘musts’, which in several participants’ minds would make it unclear in practice if the management standard were met.
- Some believe that the lack of specificity regarding ecosystems is problematic and the Option is a little clearer regarding species viability since the term ‘high likelihood’ is reasonably clear. However, it was also stated that none of the three approaches provided in the Option for achieving ecosystem diversity would produce the desired result.

### GROUP C – Option 1 Management Standard

- It was suggested that many terms used in the Proposed Rule need further clarification including development of proportionality standards, providing for ecological conditions, and measurable progress and that a definition of standards is needed in order to measure progress.
- A participants stated that maintain or restore does not establish what is necessary to restore in degraded areas; this could mean the degraded areas will be maintained rather than restored.
- It was suggested historical context should be used to establish baseline for decision-making with the understanding the historical context is a reference, not a goal.

### GROUP D – Option 1 Management Standard

- Some thought that the management standard is clear and appropriate and noted that it leaves many details to the FS handbook, which provides important flexibility and an ability to update policies as information changes.
- Several participants commented that they would need to see the draft directives to comment on the acceptability of the management standard.
- Others felt that there are no standards; policies are left to the discretion of the responsible official.

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- There was a suggestion that if there is no difference in how the FS interprets ‘should’ and ‘shall,’ then the FS should change ‘should’ in the rule to ‘shall’; this would indicate that it is an enforceable standard.
- It was pointed out there are multiple examples of workable standards over broad areas and multiple species (IUCN Redbook Ranking, NatureServe, The Nature Conservancy process) and it was suggested that the FS should make use of these.

### GROUP F – Option 1 Management Standard

- Some said that this option does not meet the two-part management standard contained in the NFMA and it does not address the need for monitoring.
- It was stated that the term ‘support the diversity’ needs more definition, while the term ‘species definition’ is not as vague.

## **5. Practicality**

### GROUP A – Option 1 Practicality

Some in the group thought that Option 1 was practical, for the following reasons:

- Option 1 would be easier for the Forest Service to implement because of the flexibility it allows. In this sense, Option 1 is more practical than what currently exists.
- Inclusion of the course filter/fine filter concept is a step forward. The degree to which we have viable functioning habitats means that over time we will minimize attention to species. However, it should be acknowledged that it is very difficult to manage well for a course filter.

Members of the group who thought Option 1 was impractical made the following points:

- The number of species at risk could be a huge number, and this could drive the whole process to a halt because of a lack of information. The approach of focusing on species is unworkable.
- Ambiguity makes Option 1 difficult to implement. For instance, some definitions are inadequate. The Option cannot be carried out if the terms of reference are not understood.
- It would be hard for the Forest Service to know if they are doing what they are supposed to do under this Option. It would be difficult for staff to gather all the required information.
- It was suggested that perhaps the simple answer to the practicality issue is to hold the Forest Service accountable for late plans.

### GROUP C – Option 1 Practicality

- Several participants noted that with most of the detailed language for Option 1 being moved to the Directives, which have not been made publicly available, it makes it difficult to compare Option 1 and 2.
- Some felt Option 1 leaves a lot out and that it is ripe for litigation; the courts will have to define terminology.
- A concern was expressed that Option 1 is not practical because it is not clear, requires heavy analysis, and will be difficult to implement. When do we know when we have done enough? What is viable? When have you achieved viability? A participant stated that maintaining species viability makes Option 1 impractical.
- Another participant thought ensuring species viability does work in some situations and there is good viability language in Option 1 under 2(ii) (page 72800).
- A participant commented that there is not enough of a commitment to and direction on monitoring in the rule, which is key to assessing viability. The participant also stated that

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more commitment is needed to monitoring and that the FS needs to link monitoring to adaptive management. There is the potential to get stuck in analysis and the land suffers.

### GROUP D – Option 1 Practicality

- Some felt that it is reasonably practical and saw the flexibility as an asset. As the rule is a vision, it should be general.
- A comment was made that Option 1 signals an attitude from the FS that ‘this is too hard.’ They have worked so hard to be practical that they sacrificed scientific rigor.
- A participant asked what is meant by diversity. No feasible budget can allow for characterization of all but the rarest of species and it is hard to know where to draw the line on analysis.
- It was suggested that the amount of funding allocated to something shows how much it is valued; an assumption has been made that questioning financial constraints is off the table.
- A participant stated that Option 1 is more applicable to a regional plan and more detail instructions will be needed for this option to function at the local level.

### GROUP F – Option 1 Practicality

- Some said this option is practical only if more resources are made available and if higher priority is placed on biological diversity.
- Others said this option meets the practicality criterion depending upon the FS’s ability to perform with current budgets.
- Others said that this option does not meet the practicality criterion because there are too many ways for public input to be left out.
- One participant stated that it does not appear that there are clear expectations about the time it would take to implement the option and, without a time horizon for the option, it is difficult to judge whether or not Option 1 meets this criterion.
- It was stated that this option should meet the other criteria first before practicality is considered.

## **6. Social/Economic Criteria**

### GROUP A – Option 1 Social/Economic Criteria

- Some thought that Option 1 does not address social/economic criteria, and that this goes back to the lack of a goal regarding biodiversity.

## **7. Maintaining Biodiversity**

### GROUP A – Option 1 Maintaining Biodiversity

- Some thought that Option 1 needs greater detail in order to meet this criterion (e.g., addition of discussion about the range of terrestrial communities, etc.).
- One participant expressed interest in the idea of conducting planning in the context of a broader ecosystem (as is suggested in both options) but the word ‘must’ would have to replace ‘should’ to make it meaningful.



## **C. Feedback on Option 2**

### **1. Statutory Agreement**

#### **GROUP A – Option 2 Statutory Agreement**

The following comments suggested a number of concerns about whether this option meets the statutory requirements of NFMA:

- The section on species is too ambiguous.
- The only way to determine if the option meets the legal requirement would be to see the result in implementation.
- The option fails to meet the legal criteria because of the lack of involvement by the Committee of Scientists in the decision to drop the viability requirement. This might make the option subject to claims that it is arbitrary and capricious.
- It was noted that the 1979 Committee of Scientists, did not draw the connection between viability standard and diversity.

#### **GROUP C – Option 2 Statutory Agreement**

- Several participants stated that many of the same concerns they expressed for Option 1 apply to Option 2. Should the rule address other statutory requirements beyond NFMA related to species conservation? The FS needs to clarify its interpretation of the law (see Group C's discussion of statutory agreement criterion for Option 1).
- Many felt the substitution of 'should' for 'must' or 'shall' is fundamentally inconsistent with statute. They felt the change in terminology means the agency has broad discretion beyond public review.
- A number of participants agreed with the emphasis in Option 2 to include the landscape level and the degree to which this option addresses multiple-use and socio-economic components of diversity. They liked having the principles stated in the rule rather than in the directive.
- Others felt that including landscape level planning means the FS exceeds its statutory mandate. Creating plans at the landscape level means the FS will consider ecological conditions, including species viability, land uses, and socio-economic factors outside its boundaries.
- Some participants stated that Option 2 meets NFMA statutory requirements.
- Others felt that there is not statutory agreement with the NFMA. While there is good encouragement, the Responsible Official can focus on other multiple uses and ignore a declining species.
- A preference was expressed for Option 2 on the part of one participant in that there is greater guidance, but more clarification is needed to ensure consistency in implementation.

#### **GROUP F – Option 2 Statutory Agreement**

- Some participants stated that Option 2 goes beyond the intent of the statute and others stated that it does not meet the requirements of the statute.
- It was also stated that the option is inconsistent. On one hand, it is predicated on including biodiversity but it later says diversity is not an important consideration.

## **2. Scientific Credibility**

### **GROUP A – Option 2 Scientific Credibility**

- It was stated that the manner in which Option 2 is implemented would determine whether or not it is scientifically credible.
- A participant suggested that strengthening the science standard of this option would improve the credibility. Some participants recommended reinstatement of a peer review process.

### **GROUP C – Option 2 Scientific Credibility**

- Some participants thought Option 2 is more scientifically credible than Option 1. They felt the mandate for the Responsible Official to collaborate with other jurisdictions at the eco-regional level makes Option 2 more scientifically credible. In addition, the ecological concepts used in this option reflect the current scientific understanding and make more sense.
- Others felt key concepts needed further clarification. The analytical requirement section includes the concept of ‘proportionality.’ They felt this concept should be further clarified and defined.
- As with Option 1, some felt that the data collection requirements are specified without reference to their use in management decisions. There was a concern that the analytical requirements are driving the collection of data rather than an assessment of issues and that issues need to drive data collection.
- It was stated that Option 2 has no socio-economic assessment and socio-economic considerations are not included in plan decisions.
- A participant suggested that the peer review process for the rule needs to be defined. It was stated that FS peer review is not an independent peer review and differs from how peer review is defined in academia; the FS needs a Science Advisory Board and the Board would provide cohesion and service to the agency.

### **GROUP D – Option 2 Scientific Credibility**

- Some stated that Option 2 is scientifically credible as it monitors and compares desired outcomes.
- Others felt that Option 2 is not as credible as Option 1 because there is a lack of standards. The rigor with which management is carried out is at the discretion of the Responsible Official.

### **GROUP F – Option 2 Scientific Credibility**

- Some felt that Option 2 is closer than Option 1 to meeting this criterion because of how it treats time and space. It was also stated that Option 2 does a better job addressing the full range of biodiversity, landscape, and ecological processes.
- It was stated by some that this option is more consistent with current scientific thinking. However, one participant noted that while this option has greater scientific credibility, it also has greater scientific uncertainty due to the status of the science. We now know more about what we do not know. The science of conservation biology has only recently moved from infancy to adolescence and it has not yet fully matured.

- One participant commented on the lack of guidance about how the appropriate species selections should be made. It was also stated that it is unclear whether this option deals with the root causes of diminished biological processes and biodiversity.

### **3. Analytical Process**

#### **GROUP A – Option 2 Analytical Process**

- Some said that the lack of clarity in terminology (e.g. ‘ecosystem diversity’) makes the analytical process for this option unclear. They felt the option does not distinguish between different levels (e.g., composition, structure, process) and they found this troublesome. They expressed the view that this looseness of definitions goes back to the lack of a goal. It was suggested that without a clear diversity goal, any method of harvest could be justified and that what is needed is a goal that recognizes that the species that are most difficult to maintain are associated with mature forests/ecosystems.
- Some expressed the view that this option is overly analytical and scientific overkill.

#### **GROUP C – Option 2 Analytical Process**

- One participant stated that the first paragraph in Option 2 does a good job of capturing the purpose of analysis – what you need to know and why.
- A participant stated that the Committee of Scientists separated planning and analysis in the 2000 Rule – Option 2 has analytical requirements in rule and the rule is not the right place for specifying analytical requirements.
- Another thought there is a need to have more structure to analytical requirements to ensure socio-economic factors are addressed.
- It was suggested that the spatial and temporal scales of analysis for Option 2 are unclear and that there is a need for more guidance on the proper scale of analysis.
- It was recommended that the term ‘status’ be replaced with ‘dynamics’ in the terminology related to ‘species status’ and ‘ecosystem diversity status.’

#### **GROUP D – Option 2 Analytical Process**

- Some stated that the analytical process for this option is unclear due to a lack of standards and suggested that the ‘shoulds’ in the rule should be changed to ‘shalls.’
- Some stated that Option 2 is based on good scientific concepts but, like Option 1, it is hard to evaluate outcomes; the decision criteria are unclear.

#### **GROUP F – Option 2 Analytical Process**

- It was suggested that this option requires the involvement of other landowners if the FS will be looking at a larger landscape scale. It would, therefore, require better collaboration than currently exists.
- Some felt that Option 2 would lend itself to the use of Graphic Information Systems more than Option 1.
- Some thought this option would present a big, secondary benefit for regional planning beyond USFS boundaries. In particular, it was suggested that this option might require coordination with other existing plans.
- A concern was expressed that the necessary skills for completing the analytical process under this option may not be resident with the USFS and would likely need to be obtained from private contractors.

- One participant indicated that the comments that were made earlier regarding the impossibility of implementing Option 1 on a large scale did not apply to Option 2 because of its inclusion of the landscape level in the planning process.

#### **4. Management Standard**

##### **GROUP A – Option 2 Management Standard**

- Some said that the option lacks a management standard because of all the ‘shoulds.’
- It was noted that this option appears to rely on endangered species – the hope is to forestall the need to rely on the ESA.
- One participant stated that the strict interpretation of language results in a focus on restoration.

##### **GROUP C – Option 2 Management Standard**

- As with Option 1, there were concerns expressed about the amount of discretion given to the Responsible Official and whether it will result in the planning process being implemented consistently.
- A participant noted that § 219.14 has additional standards that must be met by the Responsible Official. They felt these additional standards are a heavy responsibility and need clarification in directives.
- Another individual thought the Option 2 has good management standards that are flexible and meet statutory requirements. The standards are fairly and precisely defined.
- A participant recommended that the term ‘must provide for,’ as it relates to plan decisions, should be more specific. It was suggested the text should replace ‘should foster’ with ‘shall foster.’
- It was suggested that the term ‘native ecosystem’ is a good term that properly conveys the intent.
- A participant stated that the approach to species selection in the plan decision phase is unclear under this option. Which species should be selected and how they are to be selected? It is also not clear, of the species to be analyzed, how it will be determined which need to be protected and restored.
- Another participant suggested that with regard to species protection and restoration, state agencies and other federal agencies need to be an integral part of analysis and plan decisions.
- It was stated that the management standard of ‘continued persistence’ could result in ‘management at brink of extinction,’ which was seen as an unacceptable threshold for a federal land management agency.

##### **GROUP D – Option 2 Management Standard**

- It was stated that the use of ‘should’ rather than ‘shall’ make the standard discretionary.
- There was a concern that management standard under Option 2 is too broad and that without a requirement at the forest level to maintain species, species can be lost or become unviable.
- It was suggested that the draft directives that will specify the management standards should be shared.
- One participant stated that standards do exist under the 1982 Rule. The suggestion was made to build upon what currently exists.

##### **GROUP F – Option 2 Management Standard**

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- Some felt that Option 2 comes closer to meeting this criterion than Option 1 because it is more specific.
- Some felt that Option 2 addresses the need for monitoring and collaboration more specifically than Option 1.
- There was a question raised about is the legal definition of ‘provide for’ in the language used in this option.

### **5. Practicality**

#### GROUP A – Option 2 Practicality

- It was noted that Option 2 requires a high degree of collaboration in order to be successful – if it is the manager’s style to work internally, it will not work.
- It was the opinion of one participant that Option 2 is ‘magnificently impractical’ and that it is difficult for planners to justify all the information collection or to articulate why it matters.
- Alternatively, it was stated that Option 2 is doable, and in fact is being implemented in some places with lots of serious outreach and collaboration (e.g., with Natural Heritage programs, universities, etc.).
- It was suggested that without knowing the forest management goals, and which goals ‘trump’ other possible goals, this option would be impractical to implement.

#### GROUP C – Option 2 Practicality

- One participant stated that Option 2 is a recipe for gridlock. The Forest Service does not have the budgets and personnel to carry out Option 2. The unclear terminology will be litigated and defined in the courts. While the terminology may be clear for scientists, it is vague for the public, policy and legal personnel. In addition, the more prescriptive nature of this option will not shorten planning.
- Others had a different view of Option 2 and felt that it would be more easily implemented and practical than Option 1. With the removal of the viability standard, decision-making and plan implementation will be easier.
- Some felt that Option 2 calls for more assessment and this raised several concerns: Is it necessary? Is it appropriate at the forest level? There was concern expressed about the Responsible Official deciding the level of assessment.
- Another expressed the view that it is beneficial for the Responsible Official to have flexibility in how to set priorities and carry out the plan. They felt Option 2 provides enough information that you can judge the work that needs to be done. However, the research branch of the FS will likely need to devote more time to planning.

#### GROUP D – Option 2 Practicality

- Some felt that Option 2 is not practical as there are no boundaries limiting the scope of the analysis that should be carried out. There was a concern that Option 2 could cost multiples of Option 1.
- Others felt that Option 2 could be practical, that there are ways to develop guidelines and cost saving data management protocols. Some expressed that view that while Option 2 may be less practical than Option 1, it does a better job of providing for diversity.

#### GROUP F – Option 2 Practicality

- Some felt that this option came closer to meeting this criterion than Option 1 because of the public input and collaboration that would be required.

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- One participant stated that this option was not practical without a gap analysis program. They felt that funding is not adequate to fully implement this option and the ramp up time would be considerable.
- Others felt that it was doable if the FS made it a priority.
- One participant stated that there is a need for a profound cultural shift in the FS and suggested that the generation of Option 2 by the FS suggests this cultural shift is occurring.
- Another participant suggested that this option may not be practical because adaptive management requires a connection between managers and others that currently does not exist.

### **6. Economic/Social Criteria**

#### GROUP A – Option 2 Economic/Social Criteria

- Some felt that Option 2 does not adequately address social/economic criteria.

### **7. Maintaining Biodiversity**

#### GROUP A – Option 2 Maintaining Biodiversity

- Some felt that Option 2 could meet this criterion to maintain biodiversity if it were modified.

## **D. General Discussion of Both Option 1 and 2**

*Two breakout groups took a step back from their discussion of each option independent of the other option to talk about both options.*

#### GROUP A – General Discussion of Both Option 1 and 2

- In general, some felt Option 1 to be too narrow. Option 2 corrected that issue, but is too weak on accountability.
- Some noted the challenge in evaluating either option without their having been field tested, and suggested that it would be wise to have a successful example in place before establishing a new approach in a rule. Several forests are addressing some components of Option 2, but not all. The Dixie National Forest is working with The Nature Conservancy regarding where in the larger ecosystem it fits in terms of assessment, but this is occurring before initiation of the actual plan. Pilot projects were suggested as a useful approach.
- It was suggested that nothing in 1982 Rule precludes implementation of what is described in Option 2 and FS should try to test Option 2 strategies under the 1982 Rule.
- One participant stated that the Tongass is an example of how ‘ludicrous the whole biodiversity debate can be, because so much (96%) of forest is still intact and yet preservationists are calling for more protection.’ It was suggested that more balance is needed.
- Another participant disagreed and pointed out that the Tongass is an example where the rigorous application of more specific analytical procedures would be critically important to identifying and describing the diversity concerns that need to be resolved.

#### GROUP D – General Discussion of Both Option 1 and 2

- One participant noted that the 2002 rule allows for more discretion in the use of categorical exclusions under NEPA and contains limitations on appeals. This could be construed as an

attempt to exclude the public. Species viability and diversity are not the drivers in the creation of a new rule.

- A participant said that it is important to keep Options 1 and 2 in perspective. They are a small part of the entire rule and some participants have problems with the Proposed Rule irrespective of the choice between the two options.
- One participant stated that Options 1 and 2 do not address the coarse and fine filter approach as well as the 1982 and 2000 rules. In particular, they felt that the absence of a fine filter makes the 2002 Proposed Rule a non-starter.
- Similarly, some saw the focus on the community level in Option 1 as a setback for endangered species protection.
- Another participant stated that Option 2 would be okay with some changes. The plans should be general, with the specific details included in the FS handbook so that they can be updated.
- Another participant suggested that the FS needs to define a process that can be carried out. In his opinion, Option 2 is not achievable.

## **E. Group E Discussion of Both Option 1 and 2**

*As noted above and reflected below, Group E decided to evaluate both options simultaneously against each criteria rather than to separately evaluate Option 1 and then Option 2.*

### **1. Statutory Agreement**

#### **GROUP E**

- Some in the group felt that neither Option 1 nor Option 2 met the criterion for statutory agreement as they are currently written because biological diversity is placed above the statutory requirement for multiple uses. There is also no specific means or mechanisms in either option to connect biological diversity with multiple uses.
- Others felt that neither option, as proposed, meet the intentions of NFMA requirements regarding ecosystem function. In particular, Option 1 does not have appropriate accountability measures because it does not address the full range of species.
- Another participant suggested that both options go beyond the statutory requirements in NFMA because they address more than tree species.
- A participant stated that neither option addresses how non-active land use (e.g., wilderness) contributes to the requirement to provide for plant and animal diversity.
- Some participants stated that the degree to which the term 'should' is used, instead of 'must,' made them question whether either option is fully complying with NFMA requirements.
- Similarly, for some participants, until the term 'high likelihood' is better defined, they felt that Option 1 is not complying with NFMA requirements (it was suggested that the ESA should be used as an example for precedent on the use of this term).
- It was stated that, with the exception of ESA, holding the FS responsible for animals and plants in addition to habitat is inappropriate. The participants suggested that responsibility for animals and plants should be left to other responsible agencies such as the Fish and Wildlife Service or states and that the two should not be linked.
- One participant suggested that using a coarse filter approach is more in keeping with the original intent of the NFMA.

## **2. Scientific Credibility**

### **GROUP E**

- Many in the group felt that both options generally meet this criterion – Option 2 more so than Option 1 – and both reflect advancements in science that have taken place since the 1982 Rule was promulgated.
- For some participants, however, the exclusion of many species (e.g., invertebrates, etc.) in Option 1 is problematic. Option 2 was seen as more procedural but potentially inclusive of more species, but it fails provide accountability measures.
- Many in the group felt that both options need to be subjected to credible scientific peer review.
- One participant stated that Option 1 requires wildlife folks to ‘wear both a belt and suspenders,’ while Option 2 required them to ‘wear both plus duct tape.’
- Another participant felt it was essential for the Forest Service to establish a baseline of information supporting the viability standard in Option 1, or the ‘bar’ against which to measure achievement of the NFMA diversity requirement. This information could be included in the Guide and/or Manual.

## **3. Analytical Process**

### **GROUP E**

- Some felt the analytical processes required under Option 1 are not specific enough (e.g., while they require analysis of species diversity and ecosystem diversity, they do not cover the linkages between the two). Based on the paper that was made available, it is clear that a lot of thought went into developing the analytical processes for Option 2, but this information has been distilled and presented in simplified and less specific terms in the Proposed Rule.
- It was stated that the language for the analytical process is missing any reference to the suitability and capability of the land to respond to management practices. This would address the concern with the lack of linkage between biological diversity and multiple uses as per above.
- It was suggested that it is possible to take more risk with species when you know more about them – and we should take less risk with those we know less about. The problem is that we know relatively little about most species.

## **4. Management Standard**

### **GROUP E**

- Some expressed the view that whether Option 1 meets this criterion depends on what level of management is responsible for implementation of the plan (e.g., Ranger versus the Forest Supervisor). Participants expressed similar views for Option 2, but felt it was even more complex because Option 2 deals more with the community level than the species level.
- Some stated that neither option gives sufficient direction to measure what is being done – particularly in regard to evaluating progress; no performance standard exists.
- It was stated that there is no point of leverage that requires monitoring results be used to inform the management process (i.e., to ensure an effective adaptive management).



## **5. Practicality**

### **GROUP E**

- Several participants expressed the view that Option 1 is more practical than Option 2 because it is simpler.
- Some felt that the species level analysis currently envisioned for both options is still too resource-intensive. It was suggested that it is possible to do without infinitely long data collection and analysis effort in order to achieve the same end.
- One participant indicated that the cost for data collection and analysis required for Option 2 would be extreme. They suggested the FS should use the 'coarse filter' approach.
- Another participant stated that in addition to not having sufficient funds for data collection and analysis, it is not yet technically feasibility for the FS to perform all of the data collection and analysis that would be necessary for both options.
- A participant stated that the FS will not implement an approach that is beyond its financial capacity and technical capability to implement at the local level and expressed the concern that it would be too easy to dismiss the need to provide for diversity and species viability if the options for doing so are too costly and complex.
- One participant noted that it is simply not possible to measure everything and suggested the FS could narrow and refine its data collection needs by clearly understanding which issues need to be addressed, and tailoring the monitoring program to the issue to be addressed.
- Another felt both options ignore the role of states and other agencies like the Fish and Wildlife Service and the National Marine Fisheries Service in dealing with species conservation.
- One participant felt that Option 2 is generally the same as Option 1. However, the use of the language 'all species' makes it difficult to know where to draw the line.

## **6. Reducing Conflict**

### **GROUP E**

- In clarifying what was meant by 'reducing conflict' as a criteria for evaluating the options, it was suggested that the options should strive to reduce conflict between: 1) the agency and the public, and/or 2) between the users.
- Some felt that such conflicts would not be reduced as a result of any aspect of the Proposed Rule, let alone as a result of the choice between Options 1 and 2, because there are so many different users with different values. They felt the Rule should not be the mechanism to reduce conflict but rather the FS should do this in other ways.
- Others expressed the view that both options have the potential to create more conflict. They noted that a lot of the potential conflict arises because of historical issues with trust and failure for the FS to perform. The amount of conflict hinges on the existence or lack of existence of firm guidelines and developing public confidence that the guidelines will be adhered to.

## **7. Improved Consistency in Forest Management**

### **GROUP E**

- One individual observed that in Option 1, applying the species viability standard would provide a clear measure of achieving the diversity requirement, thus resulting in more

consistent forest management. However, it was less clear to how the diversity of plant and animal communities would be measured and whether this measure would contribute to consistent forest management.

- Another participant felt the responsibilities of the ‘Responsible Official’ described in Option 2 allowed for more discretion, which might result in less consistent forest management in comparison to the role of the Responsible Official in Option 1. Shifting more of the decision making to lower levels of management will result in less consistent forest management.

## **8. Suggestions for How to Improve Options 1 and 2**

### **GROUP E**

- A participant expressed the view that the FS should keep the options simple. They stated that often those who are responsible for implementing the plan are not fully aware of the whys and wherefores of what they are implementing and thus they are more likely effectively implement a simpler directive than an option that is more complex.
- It was suggested that the FS should implement some means of third party or scientific peer review of the options. One participant suggested setting the National Academy of Science to the task. Another was concerned that utilizing a group like NAS would contribute to the cycle of perpetual delay.
- Several participants suggested changing the term ‘should’ throughout the proposed rule to ‘must.’ One participant proposed as an alternative, that the FS carefully evaluate when the terms ‘should’ and ‘must’ are used to determine whether the terms are applied appropriately, and make changes where necessary.
- A participant recommended that the FS should specify what is meant by ecosystem analysis; include a linkage between physical and biological systems; and strengthen the connection between monitoring results and land management decisions.
- To address the need for practicality, it was suggested that the FS should enhance communication between the different agencies that are responsible for different analyses and transcend the current ‘stovepipe’ approach on data collection and analysis.
- One participant stated that there is a need for an option that focuses on the specific issues to be addressed in the plan area as a means to narrow what needs to be evaluated, as well as creating a better alignment between the resources that are necessary for data collection and analysis and the issues of concern.
- One participant felt modifying and improving the language for Option 2 to better address data collection and analytical needs could accomplish this.
- To more effectively address conflicts regarding the Proposed Rule, it was suggested that the FS define key terms in the preamble or beginning of the rule.

## **9. Suggestions for Improving the Rulemaking Process**

### **GROUP E**

- Some participants requested the FS consider allowing participants the opportunity to review the summary from the workshop prior to the close of the comment period for the Proposed Rule. They requested that the FS consider delaying the March 6, 2003 deadline for comments, if necessary.
- It was suggested that the FS should make white papers and other technical supporting documentation, which form the basis of the Proposed Rule, available to the public on the

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web. Another participant indicated that there is already was a lot of background material publicly available on a website.

- It was suggested that the FS should make better use of existing peer reviewed literature and clarify how the 'state of the science' informs the decision making process.

## **VI. Presentation of Alternatives**

As described in the Introduction, the invitation letter to the workshop encouraged participants to develop and present alternatives to the two diversity options contained in the Proposed Rule and identified a set of five suggested criteria to evaluate both the options in the Proposed Rule as well as any alternatives to those options. In addition, the FS identified a set of key questions to help guide individuals who might wish to develop and present an alternative. Five people responded to this request and were provided an opportunity to present their alternatives during a plenary session that occurred during the evening of the first day of the workshop. The presenters are listed below followed by a reference to the appendix where each presentation can be found:

- John Haufler, Ecosystem Management Institute, who presented an approach referred to as ‘Option Z’ (Appendix D1);
- Norman Johnson, Oregon State University, and Steve Mealey, Boise, who jointly presented an alternative they referred to as a ‘Community-Based Approach’ (Appendix D2);
- Ray Vaughn, from Wildlaw, who presented a recommendation for the FS to continue to rely upon and make good faith effort implement the 1982 Rule (Appendix D3);
- Don Waller from the University of Wisconsin-Madison who presented what he referred to as the ‘Scientists’ Alternative’ (Appendix D4) and
- Jim Walls from Lake County Resources Initiative who presented a recommendation for the FS to make use of the Land Management System (LMS) forest management planning and visualization tool (Appendix D5).

Since each of these presentations followed the slides/handouts that the presenters used, this document will not attempt to summarize the content of these presentation but will instead rely upon the materials developed by the presenters themselves as the means to convey the content of their proposals. These materials can be found in Appendices D1-5.

## VII. Breakout Session III – Feedback on the Alternatives and Concluding Discussions

*The agenda called for workshop participants to address the questions listed below, which served as a guide for the breakout group discussions in Session Three. The summary of the discussions that took place during the third breakout session is organized by subject headings, which were identified after the workshop was conducted to help organize the comments. The comments that were made separately in each breakout group have been retained under each subject heading and there was no attempt to eliminate redundancy across the breakout groups. This approach was taken to give the reader a better sense of the sum total of the input that was received. As noted above, there was no attempt to reach consensus during the discussion. Therefore, each item represents an attempt to summarize a comment that was made by at least one individual in a breakout group, but it may not (and likely does not) reflect the views of all participants in the breakout group.*

Discuss other approaches to meeting the NFMA diversity requirement.

Consider the strengths and weaknesses of the other options using the same criteria used to evaluate Options 1 and 2.

### A. Initial Reactions to the Alternatives

#### GROUP A – Initial Reaction to the Alternatives

It was suggested that the following observations apply to all the options:

- The FS needs to define ‘ecosystems’ regardless of which option is selected; there is a concern by some that all kinds of harvest methods could be justified with an ambiguous definition.
- A concern was expressed about putting too much specificity with regards to science in regulations because scientific understanding changes so rapidly. On the other hand, some participants thought that putting most of the scientific guidance in directives instead of in regulation has the potential to leave too much discretion to the decision-makers.

#### GROUP C – Initial Reaction to the Alternatives

Group C decided they did not have the proper level of information to critique the options presented during the Wednesday evening sessions compared to Option 1 and 2. Assuming the FS will use a blend of the options, the group worked on identifying the ‘gems’ from the options presented. (See below for details.)

#### GROUP F – Initial Reaction to the Alternatives

- Before the group discussed the additional options presented the previous evening, individuals in the group expressed their interests and concerns related to any option being considered at this time. It was stated that the work in previous sessions has raised issues for clarification before any additional option is fully considered:
  - What are the measures of productivity?
  - What are the true performance standards for the FS under the NFMA?
  - How is performance measured? Most options presented don’t address this.

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- How are exotic species addressed?
- Many in the group stated that a better understanding of the challenges associated with implementation of the 1982 Rule is required. Clearly identifying what has worked and what has not worked with implementation of the 1982 Rule is key to understanding whether a new option addresses those problems and this can begin by examining the litigation issues stemming from the 1982 Rule.
- Some stated that it is clear that ‘sustained yield’ does not equal ‘ecological sustainability’ and this understanding must be reflected in the proposed options.
- A statement was made that the FS has historically been habitat managers, not species managers.
- A discussion about evaluation criteria that might be used in addition to those that had already been used yielded the following suggestions by individual participants:
  - An EIS must be required
  - High degree of scientific credibility, while still being simple to do
  - Need to look at compatible uses
  - Scientist/Manager interface needs improvement

NOTE: The group gave their impressions of the alternatives presented the prior evening. It is important to note that these are not consensus statements regarding these options but rather a reflection of the views of individual participants.

### **B. Feedback on ‘Option Z’**

#### **GROUP A – Feedback on ‘Option Z’**

Jon Haufler, who authored this option, was in this Breakout session. He was asked several questions about the Option and offered the following points of clarification:

- The idea of representation makes this option significantly different from either Option 1 or Option 2 because it provides more flexibility regarding range of variability.
- The terms ‘planning area’ and ‘landscape’ can be used synonymously. Both address forest stands with similar characteristics, composition, etc. The FS would have to specify the landscape within which a plan area falls and it might be possible to have multiple landscapes on one Forest.
- Even though it is not explicitly stated, the intent of this Option would be to ensure the viability of all species by focusing on representative communities, thereby providing the necessary habitat to support all species. Historic reference is important.
- The approach outlined in this option is already being applied on a few forests (e.g. the Boise, Payette, and Sawtooth. The Sawtooth plan is being revised under 1982 regulations, which are being applied flexibly).

Members of the group made the following comments about Option Z:

- Some thought that it appeared to be an enhancement of Options 1 and 2. Another perspective, from someone who liked the Option, was that it could be a stand-alone Option rather than just an enhancement of other Options.
- The Option implies both more direction and less direction for the Forest Service, which – in both respects - makes it harder to implement. In particular, some thought that more rigorous biodiversity requirements would make it harder for the FS to meet its multi-use objectives.

#### GROUP D – Feedback on ‘Option Z’

- Some expressed support for Option Z in that it was viewed as scientifically credible, reasonably practical, and incorporated historical data into planning.
- Others found the use of historical data would be a challenge and noted that there are reference point issues and geographical differences across the United States that make the use of historical data impractical. It was thought to be especially problematic with areas that had longer histories given the potential for data variability.
- It was noted that there are practical applications of historical data in the planning context and that the approach would have representatives of all ecosystems types within the landscape. The challenge is to agree on the boundaries of the representative areas using historical data.
- There was a question as to whether landscape samples are helpful and adequate as a proxy since areas outside the representative areas would in effect be ignored, even if they had special conditions or circumstances.
- There was a response that, as a practical matter, you have to choose representative areas, but there are principles to guide this process. In many cases, as much as 20-30% of the landscape is included in the representative samples, which makes the process much more credible.

#### GROUP F – Feedback on ‘Option Z’

One or more of the participants in Group F expressed the following points of view regarding ‘Option Z’:

- Needs more explicit definitions.
- Has a clearer management standard than Options 1 and 2.
- Focuses well on ‘representativeness’ and managing for a variety of systems.
- There is no clear decision process to determine whether an ecosystem can be restored.
- The focus on a coarse filter is not adequate.
- Ignores the fact that biological reserves are part of the mosaic at the landscape level.
- Requiring representation of historical ecosystems as a negative.
- Does not target the analysis to the potential environmental consequences of decisions – nor does any other option.
- It is unclear how we define the target for the selection of species.

### **C. Feedback on the ‘Community-Based Approach’**

#### GROUP A – Feedback on the ‘Community-Based Approach’

- Some felt the fact that the authors of the Community-Based Option had laid out their assumptions was a plus.
- Others recognized the value of having the assumptions clearly laid out, but stated they did not agree with the assumptions.

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- Some participants thought the Community-Based Option was not very usable because the FS would not be willing to give up responsibility for species viability.
- It was noted that the Option seemed out of date in some respects (e.g., with reference to Category 1 species).
- One participant stated that the intent of this approach seemed to be to reduce FS responsibility for species.
- One participant stated that this option has some gaps because not all states have threatened and endangered species lists.

### GROUP D – Feedback on the ‘Community-Based Approach’

- There were mixed reactions to whether the notion that the plan should only take care of the ‘coarse’ filter at the community level under this option was adequate to comply with the NFMA. While some viewed this as a practical approach, others questioned the lack of attention that would be paid to the species level given the delegation of that authority under this approach.
- There were also mixed reactions to the assumption that stated ‘species population viability is the primary business of state wildlife and fish management agencies, and federal agencies administering the ESA.’ It was stated that greater collaboration was needed as states are often left out of the planning process.
- A comment was made that the FS needs to keep in mind that many states are not staffed to handle an increased level of responsibility and that issues such as migratory birds and tribal lands are explicitly federal responsibilities.
- It was also noted that the option makes the assumption that forests are large enough to delegate wildlife responsibilities to other agencies, which is not always possible.
- Some participants stated that the concept of a national standard for sensitive species was a positive feature and they encouraged the FS to consider it.
- There was a concern that issues affecting fish and fish habitat are not well incorporated into this option.

### GROUP F – Feedback on the ‘Community-Based Approach’

The following points of view regarding the ‘Community-Based Approach’ were expressed by one or more of the participants in Group F:

- It acknowledges state/federal interdependence
- FS has the data to support the information needs on ecological trends
- This approach does not reflect enough of the current science
- The assumptions numbered 1, 3, and 4 in the written proposal (see Appendix D) are ‘non-starters.’ Assumption 4 in the written proposal is not scientifically credible
- Limited species component and greater use of ‘heritage’ classification was seen as a negative
- The lack of a standard for species viability is a problem

## **D. Feedback on ‘Preserve 1982 Rule’**

### GROUP A – Feedback on ‘Preserve 1982 Rule’

Ray Vaughan, who authored this Option, was in this Breakout session. He offered the following points of clarification about the Wildlaw Option:

- Courts have consistently said the problem with the 1982 regulation is in not complying with its provisions, not in the regulations themselves.



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- The science in the 1982 regulation could be improved, but it would be preferable to use the regulation even with its outdated science until there is something that is clearly better – i.e., the dated approach to science in the 1982 regulation does not mean the whole regulation is unworkable.

Members of the group made the following comments about the Option (which they started calling the ‘We Can Live with 1982’ Option.)

- It is less important how work is organized (i.e., what regulation is on the books) than the competency and will of the FS employees who do the work.
- The 1982 regulations already allow good work to occur, even though they do not necessarily prescribe it.
- The 2000 regulations are more prescriptive than the 1982 Rule, but it has already been determined that the 2000 Rule will not be implemented.
- Some, but not everyone in the group thought this option merits serious consideration, with some tinkering (e.g., finding a way to cut back on the excessive amount of process that is required by the 1982 regulations).

### GROUP D – Feedback on ‘Preserve 1982 Rule’

- Some participants expressed support for the collaborative approach and the focus on restoration described under this option.
- Several participants felt that the 1982 Rule has worked. National Forests in Virginia were mentioned as an example where viability and monitoring requirements have been met under the 1982 Rule. It was felt by some that the 1982 Rule has 20 years of history behind it that should not be tossed aside in favor of a completely new rule.
- Another participant added that the 20 years of history represents 20 years of data. There is a tremendous data mining opportunity for the FS and others to look at the successes and problems of the 1982 Rule and, based on this analysis, make recommendations for a revision to the rule.
- A participant said that while the 1982 rule has significant case law behind it, it does not guarantee viability. People are making an assumption that the 1982 rule guarantees viability. In effect, the 1982 rule has been effective as a deterrent. In order to facilitate planning, the rule should be modified with species viability in mind.
- It was suggested that if the 1982 Rule were to stand, new mechanisms and approaches would be needed for incorporating social and economic concerns. The observation was made that the low number of species in the Alabama forests mentioned in the presentation contributed to a successful outcome on the ground. A similar approach elsewhere might not work given greater ecosystem complexity in other National Forests.

### GROUP F – Feedback on ‘Preserve 1982 Rule’

The following points of view regarding the option to ‘Preserve 1982 Rule’ were expressed one or more of the participants in Group F:

- Doing careful analysis upfront often creates long-term cost saving. It would be a mistake to cut costs too aggressively in the early stages of the planning process because the litigation costs resulting from incomplete analysis would erase any initial cost savings.
- There is much creative planning happening and there is room for flexibility in implementing the 1982 Rule.
- Staying with the 1982 Rule will encourage collaboration.
- Does not prevent evolution of improvements over time.
- This option does not solve cost/time problems.

- This option ignores the Committee of Scientists report.

### **E. Feedback on the ‘Scientists’ Alternative’**

#### **GROUP A – Feedback on the ‘Scientists’ Alternative’**

- Although some in the group liked the analytic approach and format of this option, several participants mentioned concerns with its political and analytical practicality. They thought it had too much detail and contained levels of analysis that would be un-workable.
- The idea of elevating ecological sustainability as the primary goal was viewed by some as a serious flaw in this option because: a) it defies logic to address the three legs (ecological, economic, social) sustainability separately – and creates serious problems if they are not integrated; and b) it is a mistake to elevate ecological sustainability because doing so creates a political nightmare.
- It was noted that this option highlights scientists’ willingness to help – the FS does not have to do all the scientific work. The agency should utilize the expertise of the larger scientific community. Even so, it is important to acknowledge that scientists do not have all the answers.

#### **GROUP D – Feedback on the ‘Scientists’ Alternative’**

- It was stated that this option builds on Option 2 by addressing scientific and environmental concerns such as criteria, standards, and quantification.
- Some participants viewed the emphasis on species assessment positively because it tries to address both the ecosystem level and species level.
- One participant indicated that the viability component is good, but expressed a question about how the data is collected. Data collection can be expensive and challenging. A habitat-based viability approach may be more practical.
- Another participant felt that the addition of a viability requirement is a weak point as it makes the process less practical and credible. There are other mechanisms that are better, such as Option 2.
- There were concerns about the costs associated with this option, that the data and resources are not available for viability analysis. In response, one participant reminded the group that this approach would make use of focal species. The viability of every species does not need to be assessed. There are principles and rules that can be employed to make the process more cost-effective, yet still scientifically credible.
- In terms of the assessment process, one participant suggested that Environmental Impact Statements would need to be prepared. There is no scientifically credible alternative to determining the effects on rare species.

#### **GROUP F – Feedback on the ‘Scientists’ Alternative’**

The following points of view regarding the ‘Scientists’ Alternative’ were expressed by one or more of the participants in Group F:

- Progressive – it tweaks Option 2 and includes the best thinking of current science.
- Consistent with, but does not conflict with multiple use.
- The focus on monitoring is stronger than in Options 1 and 2.
- Landscape and viability approaches are addressed.
- It is more closely aligned with the Committee of Scientists report.
- Some felt the emphasis on ecological sustainability was good, others felt ecological sustainability should not be the highest priority

- Is problematic in that it eliminates needed flexibility.
- Does not address productivity of the land.
- This is Option 2 with additional complexity that increases the litigation potential.

## **F. Feedback on LMS Tools**

### **GROUP A – Feedback on LMS Tools**

- In general, the group saw this as a potentially useful tool rather than an option.

### **GROUP D – Feedback on LMS Tools**

- It was suggested that this tool demonstrates there are a lot of opportunities for applying quantitative analytical approaches. It could be used to implement many of the options being considered.
- One participant noted that such tools are all well and good, but many species lack data—in some cases, you simply have to rely on professional judgment.
- Another felt the time series analysis and visuals provided by the tool could be very helpful in fostering public involvement and communication in the forest planning process. The tool is also something that can be used to educate new professionals regarding principles and forest management paradigms.

## **G. Group A – Concluding Discussion**

After reviewing the alternative options, the Group A turned to a discussion that dwelt on the following themes:

- What are the problems (real and perceived) that need to be addressed?
- Consideration of a possible ‘We can live with 1982’ Option
- Consider reexamining the proposed 2000 rule
- The role of science
- The process forward – slow down, take a step back, do more analysis, and conduct case studies before launching into a dramatically new approach.

### **1. The Problems**

#### **GROUP A**

The group decided it might be helpful to first try to define the problems underlying and driving the effort to devise a new regulatory approach to the NFMA diversity provision – before going further in their discussion of possible preferred options and next steps.

- Various members of the group thought that the effort to devise new regulations is related to perceptions about problems that have arisen under the existing 1982 regulations (since 2000 has not really been implemented) such as:
  - There has been too much litigation
  - Commodity outputs have been reduced (One person suggested that reductions in commodity output are not necessarily attributable to litigation)
  - There has been a failure to protect biodiversity
  - People’s expectations for the full array of multiple uses have not been achieved

- Cost of planning/of FS operations have been too high. (Some in the group thought that high costs are usually wrongly attributed to 1982 rule – that high costs are almost always NEPA deficiencies in the way the 1982 regulations are implemented rather than in the diversity section problems of the rule).
- Others noted that there are new problems that were not anticipated in the 1982 regulations, e.g., timber loading and fire.
- Several in the group mentioned the fact that the science base of the 1982 rule is dated, that it ignores the last 20 years of knowledge. The tools in existence in 1982 did not envision the level of analysis currently being required. Planners have not been able to do the analytical job required in the 1982 regulations.

## **2. Further Discussion of ‘We can Live with 1982’ Option**

### **GROUP A**

Members of the group who liked a ‘We Can Live with 1982’ Option made the following points:

- The FS should focus on institutional improvements rather than a new rule.
- The FS has a history of finding technical fixes when fundamental institutions need to change. It seems disingenuous to think everything is fixable through a rule. The roadless rule’s implementation is an example of using a rule when leadership would have been more effective.
- More than just a rule needed. Planners and managers want flexibility combined with accountability – they like flexibility so they can deal with changing conditions (and flexibility depends as much on the working environment as on a rule). They need:
  - Collaborative process.
  - Support by managers to be risk takers
  - Support by outside interests
  - Tolerance of failure
  - Trust
  - Reward for innovation and ‘good behavior’ (although it is hard for institutions to sustain innovations as people move up and get more responsibility for budgets and the political situation).
- This administration recognizes the challenge of law or regulatory changes – it might be receptive to new ideas for implementation.
- The FS should carefully consider what it is trying to achieve with a possible rule change, and then examine what can be accomplished under the 1982 rule. This examination should include a review of success stories under the 1982 regulations instead of an exclusive focus on the negatives, and consideration of how possibly to propagate the successes.
- The problems that have arisen under the 1982 regulations are largely (or completely) the result of failure to follow the regulations - if the regulations were appropriately applied then there would not be process gridlock or a lack of outputs from the national forests.
- The real issue is institutional, not regulatory, so efforts should be focused on institutional reform rather than crafting a new regulatory framework.
- Either Option 1 or 2 could lead to legal paralysis. It would be preferable to stay under the 1982 rule, which has already received a lot of legal interpretation.
- One possibility would be to allow the 1982 rule to stay in effect but to update the directives/handbook.

- There should be a rigorous comparison of the diversity provisions in the 1982 rule with Options A and B before any kind of a decision is reached.

Members of the group who questioned the 'We can Live with 1982' Option said:

- The idea of revising/updating the 1982 rule is politically infeasible. The 1982 rule was written to address the problem of 'controlling the timber beast' and was too process heavy. It would be next to impossible to reach political consensus to push a 'new' 1982 rule through to conclusion.
- A rule is a concrete way to give permission to 'do the right thing' and 'doing the right thing' under the 1982 regulation is often challenging.

### **3. Consider reexamining the proposed 2000 rule**

GROUP A

- Some in the group expressed the view that the 2000 rule has merits and should be reexamined. Their rationale was that a number of problems with the 1982 rule seemed to have been addressed in the 2000 rule (e.g., by recognizing the need for a course filter approach to supplement the focus on species, and by overtly promoting collaboration - the 2000 rule's emphasis on collaboration was a significant step forward). It would be helpful to do a careful analysis of the 2000 rule and how it could be implemented before taking it off the table as an alternative.

### **4. The role of science**

GROUP A

The following opinions were expressed regarding the role of science:

- The scientific credibility of any option can only truly be known in implementation. More prescription may help a little.
- To ensure scientific credibility there has to be a role for scientists.
- 'Civic science' is important – there needs to be a place in the process for experiential and traditional knowledge, thereby enabling the FS to share power and build trust.
- The social science perspective offers lessons regarding collaboration, etc.
- Scientists outside the FS have a responsibility to examine their own collaboration, framing of questions, etc.
- § 219.4 of the proposed rule (the Science section) is comprised of all 'musts' when it comes to doing science. The discretionary part of the rule is that the responsible official can choose how to use scientists.
- There is a difference between scientific access and public access to the planning process. Scientists can get access to the public process like everyone else, but they have an additional role to play.
- The Forest Service has to use scientific collaboration across mixed ownership of lands – this represents a challenge for the planning process. Oregon has a success story in such collaboration, with huge hammers as incentives.

## **5. The Process Going Forward**

### **GROUP A**

Several members of the group articulated the notion that pilot projects to test possible alternatives should precede major shifts in the FS's approach to planning in general or in accomplishing the NFMA diversity provision. Another perspective was that there is no need to do pilots – the FS should get something in place and move forward. While not all members of the group embraced the idea of pilots, the idea seemed to generate considerable interest. The following ideas and suggestions emerged from the discussion:

- Not every aspect of the diversity provision needs testing. What has not been adequately tested is the ecological sustainability component and how economic and social sustainability actually work.
- We already have numerous pilots and demonstration projects that may not even be recognized as such and we need to find them. It would be useful to have an exchange of information about existing innovations and successes before launching new pilots. Perhaps start by finding great district rangers and looking at what they are doing.
- There have been at least three collaborative efforts in the last few years to look at FS planning (O'Toole's Forest Options, an Idaho Public Lands Task Force, and other efforts). These efforts may be useful sources of information since they focused on innovative approaches to planning, e.g., having citizens involved in writing the plan, market based orientation, and trust building. The COS website is another possible resource.
- There has to be a way to empower creative people to solve problems. One way to pilot new approaches to planning would be to give a great deal of discretion to a few Forests to write their plans, with accountability at the end, i.e., empower certain Forests to simply operate to NFMA standards. Give them the opportunity and flexibility to solve problems and to 'do the right thing' without prescriptive direction. Make the results of their work be the basis for changing the rules. Those Forests would be carefully scrutinized. (Innovation carries with it the responsibility to keep track of what is being done. Transparency would be critical).
- Another pilot effort might be to rely on a planning team that is comprised of largely non-FS people (e.g., the Medicine Bow). There is a great deal of expertise in and out of the FS regarding conservation biology and this could be a way to reduce costs. The planning team would have to include a good mix of users. An ancillary benefit could be in building respect and understanding among diverse groups – thereby developing buy-in, which could produce better results. This kind of approach can take longer than traditional approaches, and players changing can create challenges.

## **H. Group C – Concluding Discussion**

*Group C decided they did not have the proper level of information to critique the options presented during Wednesday evening's sessions compared to Option 1 and 2. Assuming the FS will use a blend of the options, the group worked on identifying the 'gems' from the options presented.*

### **1. Analytical Process**

#### **GROUP C**

- Several participants felt that the options presented sharpened the need for a clear issue identification step in the planning process. All of the options focus on analysis and the notion that more information leads to better decisions. It was suggested that planning is issue driven. Issues define scale and scope of analysis and each issue has own analytical requirements.
- Adding to this line of thought, it was suggested that the regulations should focus on what decisions need to be made to meet NFMA requirements. The rule should not be regulating the type of analysis to be conducted but rather the types of decision to be made.
- Other participants shared this view and stated that the analytical requirements are driving the decisions and it should be the other way around. They suggested that the amount of analysis should be tied to the issue. Questions need to drive analysis. Knowing about the forest is different from knowing what decisions need to be made and gathering the right information needed for decisions. Start by defining decisions to be made.
- Another participant stated that the regulations should include continuous monitoring at the landscape level, outside the plan area. It also needs to meet biodiversity, water, and multiple-use standards.

### **2. Collaboration**

#### **GROUP C**

- Many participants expressed the view that collaboration cannot be regulated. The people at the table, each with their own agenda, define the collaboration. 'Home brewed' collaborations often work the best. It was suggested that the rule should state the need for collaboration but it should not prescribe or clearly define it. This allows flexibility in the collaboration.
- It was stated that for collaboration to work, people outside of the FS must be willing to actively participate. Collaboration can also involve individual forest units working together to develop multiple forest plans. § 219.13 needs to strengthen language encouraging forest areas to go beyond jurisdiction and collaborate with outside forest areas. Examples exist of forest units collaborating. Each has their own plan and the plans dovetail to create a landscape level plan.
- It was suggested that to encourage joint plans, have the Regional Forester retain power to sign-off on forest plans.
- Others stated that the law requires a plan for each forest. Rather than having Regional Foresters sign-off on plans, have them encourage joint plans.
- Another agreed that individual Forest Supervisors should sign off on plans, keeping the planning level close to the ground. They felt it is important to maintain the Regional Forester as the first level of appeal.

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- Still another view was for the Regional Forester to serve as the Responsible Official and to delegate this responsibility to Forest Supervisors depending on the nature of the issues.

### **3. Peer Review**

#### GROUP C

- Several individuals stressed that if another diversity option is developed as a result of this process, the FS needs to provide an opportunity for public input.
- Regardless of the diversity option selected, it was suggested that the rule should be subjected to independent scientific peer review to ensure the credibility of science used. It was suggested that this peer review does not require a new Committee of Scientists and it should be completed prior to the final version of the rule.
- Others suggested there is also a need to further develop language for external peer review of plans and have reviews at critical junctures, not at the end of the process. The Southern Appalachian Assessment has several examples of external review that are not formal and are flexible.
- One participant noted that § 219.14 contains language regarding the role of science and they felt it was suitably rigorous. Other felt that § 219.14 needs more definition about how the process will work.
- One participant stated that we all know that the science is changing and it is valuable to have a process that continuously evaluates and incorporates new science into directives and manuals, rather than requiring a new rule.

### **4. Course Filter Versus Fine Filter**

#### GROUP C

- There was a lot of discussion regarding the use of a coarse filter, fine filter, and monitoring. It was suggested that all three are needed for a complete picture.
- One participant noted that the 'Community-Based' Johnson/Mealey option uses a coarse filter that is practical and easily implemented. They also noted that Haufler's 'Option Z' makes good use of a coarse filter. The concern is with the fine filter approach.
- One participant suggested that forest plans should provide a rationale for species selection. They need to clarify species selection criteria and have consistent data collection across regions using Tier 3 of the National Data Collection protocol.

### **5. Statutory Requirements and the Planning Process**

#### GROUP C

- There was continued debate whether the Proposed Rule complies with NFMA. One participant asked if are we using our values to determine whether the minimal requirements of the NFMA are being met. And, how much beyond minimal compliance with the NFMA does the Proposed Rule need to go?
- It was suggested that the FS should state how the planning rule complies with NFMA, MUSYA, and other environmental legislation and point out in the planning rule where and how statutory requirements for all relevant statutes are being met through the planning process or related processes.



## **6. Components of an Ideal Planning Rule**

### **GROUP C**

- The group spent some time describing the components of an ideal planning rule. Some questions that were raised included:
  - If there was a high level of trust, and the FS does the right thing, what would the planning process look like?
  - Based on what we know now, where should it go?
  - Having created a vision, what needs to be done to build trust?
  - How do you build in flexibility?
- There was a lot of support expressed for an adaptive management approach, start with the best data and go from there. It was suggested that there should be an external review every five years and make it the basis for the next round of change; there is a need for quick, continuous change.
- A participant stated that an ideal rule should consider socio-economic factors as well as biodiversity and it would use an interdisciplinary approach.
- One participant cited Johnson and Mealey's work with eastern Oregon forests where they are looking at small, natural disturbances on the landscape as a model. They are trying to create forests that are like pre-settlement and out of fire danger. The local community is coming together and addressing the issue at that level. They are planning at the community and species level for plants and animals. The plan is working on desired future conditions, socio-economics, and multiple-use and is being implemented.

### **I. Group D – Concluding Discussion**

#### **1. General Comments**

### **GROUP D**

- It was stated that the Proposed Rule defines a process that has to work everywhere. This is a challenge given that forests can range in size from 18,000 acres to upwards of 17 million acres. It was suggested that there are not sufficient resources to do the same level of analysis appropriate for a larger forest, such as the Tongass, on every forest. The point was also made that some smaller forests may need a greater level of analysis and protection given their proximity to populated urban areas.
- There were many references to trust and lack of trust, with some participants noting that the rule as written requires that the public trust that the FS will carry it out. Others were quite emphatic that they cannot trust the FS in this regard.
- One participant suggested there is a need for a planning process that enables managers to put resources where they are needed on the ground.
- Despite comments to the contrary, one participant asserted that the coarse filter (community level approach) has power and cited an 80% decrease in wood volume extraction in National Forests over the last decade as proof. There was the concern that if the FS has to prove viability and lack of harm, they in effect cannot practice forestry and might as well turn their forests into national parks.

## **2. The Importance of Context**

### **GROUP D**

- One participant stated that it is important to put the National Forests in the context of the broader landscape and suggested that Option Z does this; the FS needs to understand linkages with zoning and other planning mechanisms and jurisdictions.
- It was suggested that the rule should be viewed in the context of other statutes. Multiple-use under NFMA is only one mandate that the FS must follow. Another is the ESA and the provision that public lands should bear a disproportionate share of the ESA burden.
- One participant expressed the view that a lot has changed since 1982, both in terms of scientific understanding and the view of the general public as to how National Forests should be managed. In their view, the public has gone from being supportive of extraction to becoming more concerned with species viability.

## **3. Enforceability of the Proposed Rule**

### **GROUP D**

- Some expressed the view that the options under the 2002 Proposed Rule are not enforceable and that too much is left to the discretion of the Responsible Official. The justification of this delegation of authority is not adequately framed as a resource issue.
- Given that questions about plan enforceability must be answered at the project level, others thought that it makes sense for the Responsible Official to have this authority.

## **4. Information/Monitoring**

### **GROUP D**

- Some felt that in order to truly assess long-term impacts, the FS should conduct cumulative impact analysis at the plan level. Another participant felt that in the interest of transparency and enforceability, cumulative impacts analysis should be mandated in the rule; otherwise, there is no guarantee that it will be conducted at the project level.
- One participant stated that if the FS has not done the analysis required under the 1982 Rule, and asked why would they do it as a 'should' (as opposed to 'shall') under the regulations.
- It was suggested that the FS should determine what the current state of the science would support in terms of monitoring. They stated that there have been great advances in conservation biology, but the conversation has not advanced and there is still a wide gulf between consumptive and non-consumptive uses. There has not been a significant incorporation of new science into management.

## **6. Multiple Use**

### **GROUP D**

- Several participants emphasized their desire to see a strong recognition of the multiple-use aspects of the statute in the rule.
- Others cautioned that the FS needs to remember that fish and wildlife habitat are a 'stipulated purpose' under multiple use.

- One participant stressed a desire to see recreation in the national forests in all forms.
- It was suggested that a broad definition of restoration is needed to allow work to move forward on the ground.

## **7. Discussion of the 1982 and 2000 Rules**

### **GROUP D**

- It was suggested that the FS needs to explain why the 2000 Rule was not implemented (beyond the expense of implementation).
- Several participants preferred the 1982 Rule to any of the options presented. Given this preference, there were questions about the fate of the 1982 Rule and how much longer it can be used. One participant explained that for the 1982 Rule to be usable long-term, the 2000 Rule would have to be formally withdrawn.
- It was suggested that although the 1982 Rule has worked in certain cases, it is not necessarily the rule that is the reason for the successes. They suggested that the key to the success has been the implementation.
- There was also the opinion that the 1982 Rule has not worked as it was intended. People find it successful where it has stopped timber sales. They stated that in the Western United States, important work is not getting done (i.e., fire risk is not being managed) and that is because the 1982 Rule is not letting the necessary planning occur. They expressed support for the FS's need to make revisions to the 1982 Rule so that they have the authority to manage the land. Otherwise, the courts will manage by injunction.
- It was suggested that the FS start from the 1982 Rule and ask, 'What has worked?' and 'What have we learned?' Adaptive management is making real progress and there are numerous lessons that can be applied.
- Several participants felt that a rigorous analysis of 1982 Rule had not been done. Others pointed to a 1987 study of NFMA done by Indiana University, which started an effort to change the 1982 Rule and eventually led to the 2000 rule.
- A suggestion was made that the FS conduct a similar process to the Diversity Options Workshop for interpreting the 1982 Rule and use that participation to craft directives for the rule that ensure species viability (see comment below under Ways Forward).

## **8. Possible Path Forward**

### **GROUP D**

The group spent some time expressing their individual views about a possible path forward. As with the other sections of this summary, the following list reflects individual views rather than a consensus of the group:

- Some felt there are ways to modify the 1982 Rule to allay a number of stakeholder concerns, including revisions to include a focal species approach as well as revisions to the sustainability portions of the directives system. They suggested this could be done via an open process allowing public comment.
- It was also suggested that viability and MIS have to be addressed, and a landscape approach and longer timeframes for planning (more in keeping with forest timeframes) need to be incorporated into the rule.
- One participant suggested the right path forward is to shore up Option 2 by using the 'Scientists' Alternative.'

- There was a suggestion to break the rule into two parts – set aside forest with old growth, as these are the forests with the most contentious issues, and focus on restoration and community health in the rest of the forests. The inclusion of forests with old growth in the rule creates a need for the rules to be so tight (to avoid threats like salvage riders) that they are virtually impossible to implement, or prohibitively expensive to do so. With a dual approach, it doesn't have to be so detailed on the restoration side. An example of how overly prescriptive rules are preventing what needs to happen in Washington state where the 1982 Rule has halted restoration on the Olympic Peninsula.
- A comment was made that FS values have changed and that the FS should explain this to stakeholders; the FS is aware of its own successes but needs to do a better job of sharing them with the public.
- Throughout the discussion, there were numerous comments about existing data and studies that the FS should take advantage of. This information needs to be collected and shared with stakeholders.

## **J. Group E – Concluding Discussion**

Group E approached the discussion in this session by first considering what critical issues are not being addressed by Options 1 and 2. The group then considered how the five alternatives presented in the evening session on Day 1 – or other alternatives – might address those issues. One participant encouraged others to reflect on the initial intent of the Proposed Rule. Another individual requested others to honor the ground rule of 'not striving for consensus' in the process of sharing insights about different approaches to achieve the diversity requirement. One participant observed that there are two types of issues to consider when evaluating the options and alternatives to addressing the ecological component of sustainability, technical issues and philosophical issues. This group discussed some of both.

### **1. Accountability**

#### **GROUP E**

- One participant felt that Option Z did a better job than either option in the Proposed Rule in describing an appropriate role for the Responsible Official.
- Another individual noted that the 'Community-Based Approach' (Mealey and Johnson) did a better job than either option in addressing ESA by anticipating potentially listed species.
- One individual felt that process and performance standards need to be defined more clearly in Options 1 and 2 and the other five alternatives.
- An individual commented that the forest plan needs to set the stage for on-the-ground accountability. One way to help ensure accountability is to more clearly tie monitoring results to informing and updating the forest management plan. It was suggested that a statement should be included in the Rule requiring a monitoring manual, annual monitoring, and a mechanism to use monitoring results in a way that informs the forest management.
- Another participant felt that we are missing a concise evaluation of how effectively we have met the diversity requirement over the past 20 years using the resources available in the Office of General Council and other sources. What have we learned from the past 20 years about the necessity for performing individual species assessments and how the assessments should be performed? It is not clear what needs fixing and why.
- Several participants noted that the Forest Guide and/or Manual should be made available for review along with the Proposed Rule for a full evaluation.

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- One individual suggested working in partnership with other organizations to gather and analyze the information necessary to evaluate species diversity to help ensure accountability. Examples of similar partnerships include the Sustainable Forestry Initiative working with NatureServe partnership on species viability analysis, and States working with NatureServe on the Heritage program.
- Another participant observed that performance standards are difficult to establish and meet, particularly when developing standards for measuring the diversity of plant and animal communities. Where would you draw the line and how would you defend the line? Using the term 'high likelihood' of achieving a standard allows for flexibility, but also represents the potential for trade-off.
- The group grappled with the question of how and at what point accountability can be determined. One individual felt that accountability needs to be based on something measurable on the ground, drawing from the past 20 years of case law and implementation.
- One individual cautioned against changing too much in how we are currently addressing diversity in order to provide a consistent framework from which to evaluate progress and ensure accountability. They suggested continuing with the 1982 Rule to maintain consistency and felt that changing to Option 1 or 2 might result in too much change.
- Another participant supported continuing with 1982 Rule until we have identified a clearly better alternative. They felt continuing with the 1982 Rule would reduce the concern and need to establish additional performance standards.
- Some felt the Johnson/Mealey approach to diversity addresses some of the need for accountability by adding tiers 4 and 5 (e.g., Tier 4 addresses the need to add fungi), and by focusing on practical implementation.
- It was stated that forest plans should state clearly what the FS plans to do. There needs to be a way to measure whether the plan is being implemented. Divergence from the plan needs to be explained (e.g., the Black Hills Forest did not implement 'the direction' of their plan).

### **2. Level of Planning**

#### GROUP E

- One individual felt that the present level of planning in the options is 'squishy' and ambiguous.
- Some saw the level of planning proposed in the Rule to be appropriate, as the options provide the right amount of flexibility in how the issue of diversity will be addressed.
- Many participants felt it was important to keep the forest management plan and the options clear, simple, and transparent.
- One individual felt the Wildlaw suggestion to stay with the 1982 Rule and find a way to make it work was a simple and implementable approach that would also allow people to see successes on the ground. He/she felt observing successes on the ground would create momentum and gain public trust in the process.
- One individual reiterated that both options go beyond the NFMA statutory requirement with regard to the breadth of species they address. Others expressed concern that both options would be a challenge to implement in different ways (e.g., can populations be measured effectively). One participant felt that, in general, Option 2 would be more difficult to implement.
- Another participant commented that the level of planning needs to address species diversity as well as other external influences on forests and how forests are managed - such as the push

to increase the size of wilderness areas/National Forests, and roadless areas. They felt the Proposed Rule for plan requirements does not adequately cover the whole forest.

- A participant expressed a concern that the FS does not have the resources, technical or otherwise, to effectively integrate all of the different elements that need to be addressed in forest management plans such as watershed management, species viability, etc.

### **3. Monitoring / Performance Standards**

#### **GROUP E**

- Several participants felt the options need to be more explicit about when and how monitoring results will be used to make decisions and inform the forest management planning process.
- A participant commented that it is important to distinguish between ‘performance standards’ and ‘procedural/planning level standards’.
- One individual felt that there is no clear performance standard for action. Another participant noted that establishing standards against which to compare monitoring results and establish trends is essential. In this regard, an individual commented on the importance of clearly defining what is meant by ‘performance standard’ in § 219.11 *Monitoring and Evaluation* (e.g., viability standard).
- Another participant felt that the options needed to be more explicit about how to keep track of changes in the landscape to inform how we should respond to changes.
- Some participants thought setting a number for population viability was feasible, while others did not. It was suggested that one alternative might be to address the same need through land allocation – then work with population viability numbers. One individual cautioned against relying on the goal of achieving a viability number versus addressing the need of how we provide for population viability.
- It was stated that most forest plans require monitoring but the monitoring is not always implemented due to lack of staff and funding. For adaptive management, more resources will be required to enable monitoring.
- Another stated that there are different monitoring needs, monitoring for forest plans and monitoring for site-specific needs. It is important to be specific about the scale of monitoring necessary for what purpose.
- One individual commented that monitoring needs to be credible and provide reliable information. Others observed that monitoring requires staff time and other resources. Without assurance of such resources, monitoring may be discontinuous, thus compromising future assessment and analysis of the results. In addition, an individual noted that credible monitoring results are necessary to support future funding allocations.
- Another participant noted that monitoring need not be resource intensive. There may be other creative ways of performing effective monitoring, including using volunteers, or other partnerships to get the monitoring done (e.g., tribes provide the FS with a lot of useful information that is complementary to the scientific database for the planning process).

## **VIII. Concluding Plenary**

After the breakout groups gave their reports from the third breakout session, the workshop concluded with closing remarks from Fred Norbury and Jim Gladen.

Mr. Norbury stated that he was particularly pleased with the constructive proposals for alternatives to Options 1 and 2 and the detailed feedback the FS received on the two options. He observed that a lot of participants seemed to be ‘moving off positions’ over the course of the workshop and several of the breakout groups were shifting to a creative problem solving mode, especially during the last breakout session.

He expressed surprise for the degree of support for the 1982 Rule. As a result of the attention this alternative received, he plans to take a closer look at certain aspects of the 1982 Rule and reevaluate why he and others in the Forest Service wanted to change them in the first place. At the same time, he expressed frustration that the FS had clearly not persuaded many participants of the validity of the underlying premise of this rulemaking – that there is an urgent need for a more practical, less costly, and less time consuming approach to planning.

Mr. Norbury stated that he has devoted a significant amount of time to leading the Forest Service’s team that is responsible for developing the Proposed Rule because he is concerned about the success and future viability of the NFMA. He has been working on NFMA for most of his career and is heavily invested in its success. He believes the planning process is too lengthy and too costly and needs to be improved. He described a situation from his experience with forest planning and species conservation on the Tongass National Forest in which it took five years to put in place species protection measures that the Forest Service, scientists, and members of the public agreed were necessary to protect the species and prevent the need for listing under the ESA. He expressed concerns that unless we find a new, less costly, and less time consuming approach to planning, there is a distinct possibility that the ‘social experiment of planning under the NFMA may prove to be a failure,’ and that the important decisions about management of the National Forests would be made outside of the NFMA planning process. He urged workshop participants to ‘not let the perfect be the enemy of the good,’ lest we end up with a ‘perfect planning process that is perfectly irrelevant’ to the real problems facing the National Forests.

Mr. Gladen once again thanked participants for attending. He stated that the Forest Service received a very rich and constructive set of input over the course of the workshop. He indicated that he personally was not ready to simply select Option 1, Option 2, or any of the alternatives to these two options. While he was somewhat disappointed with this outcome, he acknowledged that there was much for the Forest Service to consider. He made it clear that the Forest Service will carefully assess what they heard at the workshop. They will of course also gather and consider the comments submitted by the public, including the workshop participants, and determine how to proceed. He closed by encouraging participants to submit their comments in writing through the official comment process.